

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-2035
77-2135

United States Court of Appeals
FOR THE SECOND CIRCUIT

Docket No. 77-2035
77-2135

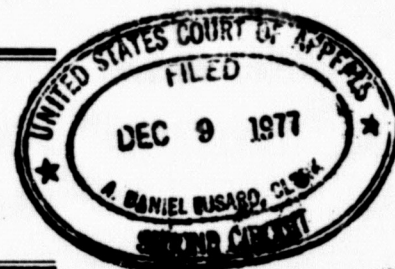
UNITED STATES *ex rel.* LOUIS WOLFISH, *et al.*,
Petitioners-Appellees,

—v.—

HONORABLE EDWARD LEVI, *et al.*,
Respondents-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOINT APPENDIX
Volume V (Pages A-1601 to A-2000)



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1 dwa
2 experience, then usually it can be tolerated satis-
3 factorily.

4 Added to the fact that the layout and the
5 architectural design of the MCC is one that tends to
6 convey, at least in the day hall area, more of a sense
7 of spaciousness, the opportunity to both, in terms of
8 the view, the color, the lighting and the opportunity
9 that one has more than one level to move around on,
10 so that you can get a variety of visual experiences,
11 you are not tied to the same thing, all of those are
12 factors that I think should ameliorate the degree
13 to which you would expect some kind of emotional
14 damage that's going to cause problems.

15 Q Dr. Menninger, you made mention of the ques-
16 tion of recreation. Have you visited the roof
17 recreation area at the MCC?

18 A Yes, I have.

19 Q Based upon that observation, and assuming
20 that the roof is made available to each unit at the
21 MCC on a daily basis for approximately an hour, weather
22 permitting, do you have an opinion as to whether --
23 and also assume -- excuse me -- that there certain
24 recreational opportunities available on the unit such
25 as you have observed in the nature of weight lifting

A 1602

Menninger-direct

2730

dwa

1
2 in the small TV room, ping-pong, billiards and the
3 like, do you have an opinion as to whether those
4 recreational opportunities are adequate to meet the
5 needs of the inmates with respect to their mental well
6 being?

7 A I have an opinion there are no clear
8 guidelines about how much space one actually needs to
9 be able to exercise in or have some activity. There
10 should at least be room enough for one to have some kind
11 of active exercise for those who want it. Of
12 course, there are a lot of people who aren't interested
13 in it. The space as available I would think can
14 provide that outlet. It's -- I know if one were to
15 design some idea you might have something that would
16 not be subject to the vagaries of weather in the same
17 way, and maybe have a little more freedom of the
18 obstruction up there, but certainly there is adequate
19 to play some basketball, or to have some other kind of
20 physical activities that are as adequate in certain
21 respects as a gymnasium that's used in many kinds
22 of other equivalent facilities, hospitals and the
23 like, the exception being that in the wintertime
24 and in inclement weather it compromises the availability
25 of it.

A 1603

dwa

Menninger-direct

2731

1
2 Q Based upon your expertise as a psychiatrist
3 and as a medical physician, did you observe in your
4 tours of the MCC any indications that individuals were
5 suffering there from a lack of physical exercise?

6 A I don't think that on just going through
7 one can necessarily draw a conclusion about that because
8 clearly some people are more active than others and
9 how apparent that's going to be I don't think you can
10 get on a ready glance. Some people will take more
11 advantage of the facility, I'm sure now, than others.
12 And there is a lot of individual predisposition.

13 I didn't see anything that I could use as
14 a basis to form a definitive judgment on that.

15 Q Dr. Menninger, I'm going to show you Re-
16 spondents' Exhibit CC, which is a weekly schedule of
17 the educational and recreational activities available
18 to the inmates on the various units at the MCC. I'm
19 going to also ask you to assume that a certain
20 percentage, but not all, of the inmates have certain
21 work assignments, and that those assignments by pre-
22 trial detainees are generally limited to the units
23 where they live, including such items as food pre-
24 paration on the unit and unit sanitation. And I am
25 going to ask you whether you have an opinion as to

whether those activities and work opportunities, to the extent that they exist, are sufficient to meet the psychological needs of the inmates for activity during the period of their confinement.

A Yes, I have an opinion. Clearly, there are a number of opportunities which are available in a broad sense. The question of how much all of the needs of -- with an institution making it a wide range of people of educational ability, how much it provides for the total range of needs, I'm not sure. I think that there is reason to assume that there are things for people to do, although they may not be as much as some of the individuals would like to be able to do.

The problem of differentiating between the -- the difference between what might keep people totally engaged and have people partially engaged and what the emotional impact of that is is very hard to determine.

I think that on the whole if these are consistently carried out, that this should provide sufficient opportunity to relieve a lot of the pressures that would come up in given individuals. But at the time that I was there one of the complaints of the inmates was the degree to which, for instance,

dwa

reading materials were not as available as they would like, or changed as much as they would like, and that was confirmed by some of the personnel. That's another one of the things that can help people in their adaptation, but to say that without it you are going to experience severe consequences is not something I feel I can say.

Again, we are talking in a probability issue, and there is a range of these things that will ameliorate the stress of the overall confinement. The degree to which some of these are more effectively applied than others can counterbalance the fact that some others are less available.

Q Do you have an opinion as to whether the level of activity and job, recreation and educational opportunities that are available at the MCC is such as to significantly compromise the mental well being of the inmates that are confined there.

MR. MUSHLIN: Judge, I think it is the same question that he's been asked and it's been answered.

MR. SCHAPPER: Your Honor, I think the question has been partially answered but not completely.

THE COURT: I will allow it.

1 dwa
2 without activity is the worst, and the degree to which
3 you then have a different approach for soembody who is
4 going to be in this kind of facility for a long time
5 as opposed to somebody who is likely to be in it
6 for a month or two, I think it is going to be a
7 different situation.

8 Q Dr. Menninger, on your visits to the MCC
9 did you have opportunity to observe the visiting rooms?

10 A I did.

11 Q I'd like you, based on that observation,
12 to assume that a given individual is permitted three
13 visits, visiting periods, per week, which may last up
14 to three hours, but which on occasion are cut shorter
15 and that due to pressures of other individuals wishing
16 to use the visiting room.

17 I'd like you also to assume that there
18 are coin telephones available on the units for use at
19 any time that the inmates are not locked in; that there
20 long-distance telephones covering areas outside the 212
21 area code which are available for use between 3 p.m.
22 and 11 p.m., based upon a sign-up sheet; that the sign-
23 up sheet contains 21 spaces for each telephone so that
24 not all of the individuals who sign up necessarily get
25 the opportunity on that particular day to make their

A 1607

dwa

Menninger-direct

2736

telephone call.

Based upon your observations and these assumptions, do you have an opinion as to whether the visiting schedule conditions and telephone opportunities at the MCC are sufficient to permit adequate maintenance of contact with one's family or friends, such as to preserve one's mental well being while at the MCC?

A Yes, I have an opinion. The degree to which there is an opportunity to have some contact with family and to get some sustenance from them where there are significant relatives involved is important. Indeed, most of the evidence of how people adapt after they have been in a prison, experience points to one of the critical factors being the support of family outside. That those who will have significant family persons outside or significant relatives to help them support, the odds are they are going to do a better job in adjustment. And the degree to which one can maintain contact, I don't think anybody can say absolutely that there is a precise number of visits that you should have or not have as long as the access is there, and that one can maintain some kind of contact in which there is an opportunity to share the experience and get the

A 1608

dwa

Menninger-direct

2737

emotional support, whether it is by phone or in person.

Obviously there is a value where there can be an opportunity to sit down and talk directly. Obviously there are constraints in any kind of prison setting that has to put some kind of controls based on the threat to the institution as a whole, either of the potential contraband being smuggled in or other kinds of things happening, so that there are realistic limitations which I think are applied and I think again most of the individuals in that setting appreciate the reality needs, and while they may not like it, and it may not be a kind of ideal arrangement that one would have in a setting where you didn't have to worry about security issues, I think that the MCC has done more to help ameliorate some of those problems than many of the facilities I have been in.

ars

1
2 Q Specifically, in reference to your mention
3 of security needs, I would like you to assume that after a
4 family visit or social or legal visit, an inmate is brought
5 into a shakedown room where he is asked to remove his
6 clothing and the clothing is searched and the individual
7 is given a visual strip search, which includes opening his
8 mouth, raising his arms, bending over and exposing his
9 rectal area.

10 Do you have an opinion as to whether this
11 practice imposes a level of stress upon inmates such as
12 to compromise their mental well being?

13 A Yes, I have an opinion. Essentially it is
14 that in my awareness, both talking with staff and others,
15 that this becomes a kind of automatic, objective process
16 that is accepted by the parties concerned as something
17 that is part of the system and may not be liked, but
18 I am not aware of any irreparable damage to a person's
19 psyche which is done by such a process.

20 In part there is the element to which we
21 practiced universally and again with a recognition one
22 is dealing in a setting where there can be problems that
23 result from things coming into the institution which are
24 not supposed to be there, that other individuals in the
25 institution in one sense may be helped in their security

itself.

Do you have an opinion as to whether this practice imposes a level of stress upon inmates that would compromise their mental well being?

A I would answer that in the same way that, yes, I have an opinion, again with the proviso that while this is something that may not be wished, that it is part of the reality of the circumstance in which it is not only appropriate from a standpoint of the institution's security, but is something to which people can adapt and recognize and I would doubt that anybody was so severely upset by such an experience that they would require psychiatric care or, again, that there is a question of after effects of it.

To the degree that one has something to hide it can be very unsettling but you are introducing then another variable.

Q Dr. Menninger, I would like you to assume that the personal property of inmates at the MCC is restricted to those items which are issued by the institution or which they can purchase from the commissary; that the only items from the outside which are permitted into the institution are shoes and socks, a wedding band or religious medallion and books and

es4

Menninger - direct

magazines as well as photographs of family and friends.

I would like you to also assume that inmates are required to wear a uniform which you have observed in the form of a jump suit, which comes in three colors, orange, red and blue;

And that they are permitted on a weekly basis to order items from the commissary using a commissary list.

Do you have an opinion as to whether these practices and restrictions relating to personal property create a level of stress for the inmates such as to impair their mental well being?

A Again, yes, I have an opinion.

When one talks about the issue of stress and impairment of how people will adapt and their emotional capacities to adapt to it, one of the important aspects is the environment of the institution as a whole; the degree to which if you are going in an institution which has its responsibility the controlling or limiting of certain behavior which everybody acknowledges that is a given requirement, that then procedures which are carried out with at least some reasonable concerning for maintaining as much of an individual's dignity as possible, are going to be tolerated in a way that might otherwise

es5

present greater stress.

Indeed, you have even severe stresses which some people will be able to tolerate quite well.

The issue of personal property is one in which obviously there is a disruption and one has to give up part of one's self in this institution.

The question of how much a person can tolerate giving up and how long, again if we are talking about this process of being something for a short period of time, one month or two for somebody not sentenced -- I think it is something for one convicted and sentenced, then society has declared you should be deprived of certain things.

For those who are not convicted, then the degree to which one is allowed at least to have some representation of one's self, then the more than one can reasonably do it, the nicer it is. But I don't think you can assume that this kind of process is going to push somebody in a mental crisis.

The issue of uniforms, I am aware that there are mixed feelings about the uniforms. The degree to which they help define certain boundaries, at least in institutional management, is obviously a factor.

If one can clearly identify who is who, who

1 es6
2 has to be counted and who has to be kept track of, there
3 is some value in having that clearly defined in terms of
4 procedures progressing clearly.

5 How much this is clearly a factor that one
6 can make an overwhelming issue about, again, I have some
7 trouble in being able to state flatly whether wearing such
8 a uniform is going to be intolerable stress or however
9 you want to word it.

10 Obviously, it would be nice if there were
11 ways that could be developed perhaps so that people
12 could wear more what they like but you are always dealing
13 with trade-offs in such a setting.

14 But if you say it is so much that it is going
15 to interfere with the capacity to adapt, I would doubt
16 that there is evidence to say that that is so.

17 Q Dr. Menninger, I would like you to assume that
18 inmates who are being observed for psychiatric purposes
19 are housed in Unit 9 South; that they are part of the
20 general population on that unit which includes also
21 people who are locked in for disciplinary purposes and
22 people who are under close observation for security
23 purposes;

24 That the rooms to which these people are
25 assigned have been changed in such ways as to minimize

1 ars

2 Q Prior to that time what position did you
3 hold?

4 A I was Director of the State of Missouri
5 Correctional Services which included the Department of
6 Corrections, Probation, Parole and Youth Services.

7 Q Prior to that would you give us a brief
8 listing of your associations in the field of corrections?

9 A Prior to that I served as Assistant Commis-
10 sioner of Corrections in New York City, Department of
11 Corrections for about two and a half years.

12 Prior to that, for eight years, I worked at
13 the Federal Bureau of Prisons at the Federal Penitentiary
14 at Terre Haute, Indiana, Marion, Illinois on two
15 occasions and the Federal Correctional Institution in
16 Lompoc, California. There was an interlude when I was
17 on leave of absence from the Bureau to return to school.

18 Q What is your educational background, Doctor?

19 A A Bachelor's degree in American literature
20 from Middlebury College; a Master's degree in criminology
21 and corrections from Florida State University and a PhD
22 in sociology from Yale University.

23 Q Dr. Camp, I am showing you what has been
24 marked as Respondent's Exhibit GG and ask you if you can
25 identify it?

es8

Menninger - direct

segregated from other individuals, unless there is some question that the patient is dangerous to others and you have to then take precautions.

Indeed, in many settings it can be helpful. It depends on what some of the external stresses may be that you see as contributing to the illness. That is, oftentimes people are hospitalized psychiatrically because part of what is contributing to the problem is the hassle in the family and part of what you are doing is separating them from the family situation to allow things to get settled down and see where things are at.

To what extent one is going to encounter on
9 South problems with others I would not see that as
necessarily a problem.

Q Dr. Menninger, at the beginning of your testimony you outlined some factors which you would consider in evaluating an institution and in particular the impact of the institution upon a person's mental well being.

You spoke somewhat about staff and you spoke somewhat about the atmosphere of the institution.

Based upon your visits to the MCC, do you have an opinion as to the overall effect of the MCC on the mental well being of the inmates confined there?

MR. MUSHLIN: I object to that question as very

A 1616

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Menninger - direct

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- Clearly to come into a setting which has an initial impact of the architectural setting that the MCC does, I think that is a positive factor.

The degree to which it does not have the traditional prison atmosphere and in a sense that is a significant departure. I mean the atmosphere in terms of physical atmosphere is a significant departure and I think is one of the elements.

Indeed, in the efforts of the advisory panel to the Bureau we encouraged getting architects who would come in with fresh views and try to break the mold of the traditional square and bars and what-have-you, to give more of a visual sense of freedom where obviously freedom is limited but not to make so stark a limitation.

The second aspect that impressed me on the positive side -- and this isn't to say there aren't negatives because you can always find negatives, but on the positive side, most of the personnel with whom I spoke seemed to be concerned about a number of things, a number of issues that some of the inmates complained about, although there are limits in terms of how any one individual could deal with it.

This isn't to say that there aren't many slips twixt cup and lips and that some of the good intentions

A 1617

Menninger - direct

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of the administration or the personnel may not always be carried out, because there is no question that you are dealing with a testy population who will test limits consistently and push you to the end.

Part of the population, even if you assume a significant number of individuals who are there without conviction, are not guilty, you are still going to have a significant number of individuals of a personality clarification that is labeled antisocial or socio-psychotic who will repeatedly set up a kind of self-fulfilling process. They test you to the point you cannot respond to their wishes and thereby prove you are uninterested in them or really don't care no matter how much you give in to certain wishes, they proceed to push you, to force you to have something to demonstrate that you can't respond to what they want.

So that in some respects you are damned if you do and damned if you don't, whatever you give.

I certainly found some incongruities that would contribute more stress rather than less stress. There is no question that there can be pressures which when you have to take a facility design for a certain number and add people to it and that goes to add additional stress when you have population beyond what it was originally

A 1618

rs13

Menninger - direct

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THE COURT: I will allow it.

A I think recognizing the over effect and In part with an awareness that individuals are regularly incarcerated throughout this country in institutions which are much less humane and cannot clearly be defined by those detained but not convicted, there is certainly an impact but to say they are irreparably damaged emotionally, I don't think one can say and I think the overall impact at the MCC is much more positive than most of the institutions of comparable incarceration in the country.

I do not believe, particularly in terms of what we are talking about, those not convicted and who thus with the average length of stay of the figures I saw, the median was around a month, and for these kinds of individuals it simply I think goes too far to say that the kind of experiences which are there, which certainly present stress, presents stress beyond the capacity of the individual to adequately adapt and once out, be able to function quite effectively without some kind of permanent scar.

MR. SCHAFFER: Thank you, Dr. Menninger, no more questions.

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1 rsl4

Menninger - cross

2 CROSS EXAMINATION

3 BY MR. MUSHLIN:

4 Q Dr. Menninger, when you were in the dormitories
5 you said that you spoke with some inmates and there were
6 some complaints that they discussed with you.

7 What were the major complaints that you heard
8 from inmates in the dormitory?

9 MR. SCHAFFER: Objection, I think to a certain
10 extent that is hearsay testimony.

11 THE COURT: I think it is but why do you think
12 it is not.

13 MR. MUSHLIN: He testified about the dormitory
14 and said that he based his observations on conversations
15 with staff and inmates and I believe an expert may or
16 can do that and I'm now asking for him to disclose what
17 that was.

18 THE COURT: That makes sense, I will allow it.

19 A Well, the kinds of complaints expressed
20 ranged from the problems of crowding in the dormitory,
21 double bunking, concerning the ability of some people
22 to get up on the second bunk.

23 It concerns in terms the bathroom facilities.
24 There were complaints from some of the Muslims and others
25 about the food and the lack of availability of certain

rs15

Menninger - cross

1 kinds of substitutes.

2
3 There was a good deal of concern about the
4 conflict of recreation time and visiting time; some
5 of the feelings about the limitation of visiting time
6 and particularly the problems that there was no additional
7 visiting time available to provide for the additional
8 numbers on 11 South; nor was there necessarily a greater
9 recreation time available.

10 That thought there were substantially more
11 inmates in that setting, there was no institutional
12 compensation in either recreation times or visiting time,
13 visiting facilities, or even in terms of personnel.

14 There were concerns, a number of concerns
15 expressed about the medical care and the concerns either
16 being able to get medication or getting things checked
17 out.

18 I am not sure that is all of them but that is
19 a good number of them. There were -- that is it.

20 Q You said that you were in the dormitory when
21 the men were locked out of the dormitories and allowed into
22 the commons areas?

23 A The time -- not on this last visit and the
24 first time I don't recall specifically. I don't
25 think so.

1 rsl6

Menninger - cross

2 Q So both times you were there the men were
3 not locked up --

4 A Not locked up when I was there the last time
5 on a Sunday, Sunday morning and there were a good number
6 who were sleeping late and so part of the population was
7 in and part out.

8 Q Do you recall whether the population right
9 now is 110 or 120 in the dormitory? Do you know what
10 it was in the May 1976, the comparable number?

11 A Yes.

12 Q So when you were there in May during the
13 normal activity times, during times when the men were in
14 the common areas?

15 A I can't recall precisely what the situation
16 was on 11 South at the time of that visit.

17 Q So you don't know whether or not when during
18 a normal activity time when men are down in the day rooms,
19 whether there are sufficient numbers of recreational
20 supplies like pooltables and Ping-Pong tables for the
21 men to engage in activity?

22 A I think it is quite clear that when you use
23 the term sufficient, sufficient for what?

24 There is no question that when you take an
25 area that was architecturally designed for 54 and then

rs17

double the population and you don't double the space facilities, there are going to be problems and there are going to be difficulties. Even if you wanted to put in more pool tables or other things, there are going to be difficulties and there is going to be additional stress.

Part of the problem, at least from my standpoint is defining objective criteria by which you can say how much stress is too much.

Q I understand that. Let me ask you this:

One of the other things when you were talking about dormitories, you said that there are certain people who may be taken advantage of in dormitories and it presents more problems than it does for other people.

A Yes.

Q Is it also fair to say for some people whether or not because of their antisocial personality or because they just feel uncomfortable in large groups of people, for some people there may be additional problems, that the dormitories may present special problems?

A Well, it is not necessarily a case of anti-social if you are using it as a diagnostic term which would not necessarily fit --

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Q Doctor, excuse me. Don't stay bound to my definition. What I'm asking you --

A I think --

Q Excuse me, doctor. Let me just finish. What I'm asking you, isn't there a group of people, or whatever you label them, who feel uncomfortable in large groups?

A Sure.

Q And for whom the privacy of a room has special significance?

A Yes.

Q You talked about there seemed to be a reasonable expectation they are resolving the way an inmate might experience being placed in a dormitory and you said that somebody who has middle-class values might experience the difficulty more than someone who doesn't, is that correct?

A Yes.

Q Do you know whether there are any middle-class people in the dormitories at the MCC?

A Yes. My impression from the contact I had is that I encountered people from both middle-class areas and lesser or lower economic status. I think the important aspect there is that, well, even

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middle-class people can adapt to it if they have to, and thousands did in the Army in World War II and did not suffer irreparable damage, or get any closer quarters. But I think part of the difficulty comes in that many times when we go into a correctional setting we base certain judgments on the basis of our own personal experience and our personal orientation, which may not really be proper as far as accurately representing the way other people are going to respond to it. And I certainly had this error in some of my initial experiences in corrections because what would offend me or my sensibilities in a personal sense I discovered you cannot automatically translate that over. There are other people whose sensibilities are of a different sort and who may tolerate things that I would be uncomfortable with but may be upset about something else.

Q Incidentally, do you know whether or not the MCC inmates who have special difficulties in dormitories because they feel uncomfortable about large groups of people or because they are taken advantage of are allowed to transfer out of 11 South? Do you know whether that's done?

A I am not aware of the specific practices

for transferring.

Q Okay.

A I am aware that there are certain limitations introduced in terms of making sure that there is not a mix of those people who are not convicted, so that there are certain floors that have to be reserved for people who have not been convicted. I'm aware that there is an area which --

Q Doctor, I think it would go faster if we just responded to the questions.

A All right.

THE COURT: Are any of your judgments based upon that awareness that people, for example, who are not convicted are segregated?

THE WITNESS: Yes, in the sense that I'm aware that people who are not convicted are not in 11 South.

THE COURT: More generally do you think that that's a desirable practice, to keep the unconvicted separate?

THE WITNESS: Yes, I do. I think that's appropriate.

MR. MUSHLIN:

Q Did you speak with any inmate who had been

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A Yes.

Q How many people were in the visiting room?
Which floor were you on, doctor?

A At that point I was on, I think it was,
the 9th floor.

Q How many people were in the visiting room?

A And I don't think I -- I counted the exact
numbers. I think that I recall a figure somewhere around
28 was a limit, but I don't -- I'm not sure that there
were that many in the room when I -- both sides -- I didn't
actually count the numbers. I mean I would say there
were at least 15 to 20.

Q Did you observe the ventilation and did
you experience the humidity and the temperature in that
room?

A Yes, it's --

MR. SCHAFER: Objection, your Honor.
The doctor is a psychiatrist. He's not a custodial
engineer.

THE COURT: I know that, but I think he
may be asked about it.

A Yes, it is clearly one had a sense that it
was crowded, and that on that particular day it
was gloomy outside, raining, and it was gloomy inside.

1 dwa
2 As far as precise temperature, I don't know that at
3 that point I was aware that it was extraordinary one
4 way or the other. I would appreciate how, with the
5 closeness of the space and increased number of people,
6 the body heat might cause problems.

7 Q Let me ask you this, doctor: do you
8 think that privacy in one of those visits when you
9 are in prison is important or has any value?

10 A Well, it has value, certainly. And it
11 is -- it may be of varying importance. Again, I'm
12 sure if one could have an ideal it would be nice if
13 one could have an opportunity for private visits.
14 The degree to which the lack of privacy will cause
15 significant problems or significantly affect the rela-
16 tionship, I think it would be false to make that assump-
17 tion, because the nature --

18 Q That wasn't the question, doctor.

19 MR. SCHAFFER: Excuse me, your Honor.
20 I think the witness should be permitted to answer a
21 question before Mr. Mushlin interrupts.

22 THE COURT: I rather you didn't interrupt.

23 MR. MUSHLIN: Okay, your Honor.

24 A I'm just saying that in many cases it is
25 the nature of the relationship before the person gets

1 in prison or in that kind of setting. That relation-
2 ship isn't going to be changed by virtue of whether you
3 have private or nonprivate visiting except the in-
4 evitable -- if there is a prolonged separation. But if
5 you are talking about, again, for people who are there
6 not as convicted people but there prior to conviction,
7 I would not see that as being something that would be
8 grossly unreasonable.

9
10 Q What benefits do you see in privacy in
11 family visits?

12 A Oh, I think you know there may be things
13 that people can more comfortably talk about when they know
14 they are not going to overheard. Often what hap-
15 pens of course is that there is a kind of mutual under-
16 standing that you don't -- you don't attend to
17 other people, but it is sometimes hard to avoid. But
18 the whole business of talking about issues that may be
19 personal and private, what's going on that you don't
20 want to share generally, I can see that value.

21 Q Let me ask you this: regarding the strip
22 searches, let me ask you to assume that if during one
23 of those searches while an inmate was stripped and
24 bent over and was exposing his rectal area an officer
25 were to threaten him or make some sort of derogatory

1 dwa

2 sexual remark to him --

3 MR. SCHAFER: Objection, your Honor.

4 There is no evidence at all on the record along those
5 lines and this hypothetical should not be permitted.

6 MR. MUSHLIN: I believe there is evidence
7 on that.

8 THE COURT: Yes. Objection overruled.

9 Q Assume that during one of those -- and I'd
10 asked you to assume that that's during one of those searches
11 while the inmate is exposed -- an officer makes a derogatory
12 remark or issues a sexual epithet based and directed
13 at the inmate, would that influence your opinion as to
14 the effect of that search?

15 A Certainly.

16 Q And in what way?

17 A Negative. I mean that certainly that
18 it is inappropriate and unprofessional and any officer
19 who is identified and there is clear evidence of its
20 performance, he ought to be disciplined.

21 Q It is true, isn't it, that the search procedure --
22 that a search procedure which requires an
23 inmate to strip in front of an officer, to bend
24 over and expose his rectal area, will be experienced as
25 humiliating to him; isn't that fair to say?

1 dwa

2 A It may or may not, depending on how -- the
3 context in which it is done. It can be made humiliat-
4 ing and it can be made as a routine process that doesn't
5 have to automatically be a humiliating process.
6 That is, you know, a physician examining a patient
7 can do it in a way to huiliate the patient or can do
8 it in a way that is seen as reasonable and an appropriate
9 process.

10 You see, the part of the recognition is
11 that there is a trade-off. In order to allow visiting
12 contact, then the institution has to apply a secure
13 arrangement otherwise to protect the integrity of the
14 institution as a whole and staff and inmates in it.
15 And the question is then if you are saying it isn't
16 a matter of kind of having contact visiting and not
17 having some kind of appropriate security examination
18 afterward. So I think it is hard to separate
19 them. And I think probably even if the inmates
20 were told: "Here is your option: you can have
21 visiting with no contact and no search, or you can
22 have contact visiting and a search," I would be willing
23 to bet that the inmates would take contact visiting with
24 a search over no contact visiting.

25 Q Let me ask you this, doctor: Obviously

1 dwa

2 you are not an expert on security, isn't that right?
3 You don't know whether it is necessary to have contact
4 visits?

5 A I've had a reasonable amount of experience
6 in a correctional setting.

7 Q Doctor --

8 MR. SCHAFFER: Objection, your Honor.
9 Dr. Rundle testified along these lines, as to the
10 necessity of strip searches, and I don't see why Mr..
11 Mushlin should be badgering the witness on this score.

12 THE COURT: He is not badgering him.
13 He is asking him. But you may ask specifically
14 what security objectives are served by the rectal
15 search in the doctor's experience, if you wish.

16 Q Well, I don't mean --

17 THE COURT: Well, then I will ask.

18 A Well, in a correctional setting, you know,
19 you are dealing with people who are in many instances
20 out to beat the system and will devise remarkable ways
21 by which they can try to beat the system. There
22 are indications, although they may be unusual, where
23 an individual may try to put something in the rectum.
24 More commonly --
25

1 dwa

2 BY THE COURT:

3 Q I'm talking about security.

4 A Yes.

5 I don't know if you ever flown El Al.

6 A No, I haven't flown, but --

7 Q Very security conscious. They don't use
8 the rectal search yet --

9 A Well, except I don't know that the -- it
10 is clearly a matter of, the question is when you are
11 talking about rectal searches, it is my understanding
12 that they don't do rectal searches here; they do ob-
13 servation.

14 Q Whatever you call that, whatever that is,
15 the spreading of the buttocks.

16 A That's anal inspection.

17 Q That inspection, and that's what I am asking
18 you about, what security objective does that serve,
19 based on your experience in penal institutions?

20 A Well, the primary security is to try -- the
21 only thing would be if there were a bag of something,
22 some evidence of something which was still protruding
23 from the anus.

24 Q But what do you mean by that?

25 A A bag --

1 dwa

2 Q Narcotics?

3 A Yes, primarily drugs.

4 Q That's what you mean by security?

5 A Yes.

6 Q You don't mean weapons or threats --

7 A No. I'm sorry. Drugs.

8 BY MR. MUSHLIN:

9 Q Isn't it true as a doctor, doctor, that
10 if someone were to secrete something past his sphincter
11 muscle in his anus or, I think, rectum, whatever, it
12 wouldn't be observed on a visual inspection?

13 A The odds are that it wouldn't be discerned,
14 be seen.

15 Q Regarding the people who have been diagnosed
16 as mentally ill who are held on 9 South, you don't know,
17 do you, whether or not any of those have been diagnosed
18 as dangerous to others or themselves?

19 A I don't know. I didn't assess individual
20 cases.

21 Q You didn't do any in-depth psychological
22 interviews with anybody at the MCC, did you?

23 A No.

24 Q It's true, isn't it, Doctor, that the en-
25 vironmental factors in a prison are important in shaping

human behavior in that institution?

A I think that's a fair statement.

Q You participated in a study of violence in America in the commission that was appointed by President Johnson?

A Yes.

Q You had occasion to study some of the causes of violence in America, did you not?

A Yes.

Q And some of those causes you found were in the environment, did you not, as opposed to -- you found -- let me rephrase that.

Didn't you find that some of the causes of violence in America had to do with not only the individual but the way the individual reacted with his environment, so it is important to look at the personality traits of individuals as well as what was in the environment that they reacted to?

A Yes.

Q One of the factors in the environment that influenced that of course is crowding at the time?

A That certainly can be a factor. It is, but it is not -- there are many other factors that may be --

1 Q I understand that. I didn't ask if it
2
3 was the sole factor. I wanted to know if it was one
4 of them.

5 Didn't you also find that the loss of
6 autonomy, when that does occur in an individual, or when
7 society -- when an environment causes that to happen
8 also, in your view, contributes to violence?

9 A Loss of autonomy, loss of a sense of self,
10 whatever. In terms of trying to understand what
11 will prompt violence, there are many predisposing factors.
12 When you look at causation you have -- you have some
13 immediate precipitating factors. You have those
14 then in the environment just -- or the factors just prior
15 to the incident but were predisposing, and then you have
16 those in the early developmental influence, and in
17 many cases in violent offenders what you find are highly
18 significant factors in the earliest phase of life that
19 affect capacity to trust, and issues related to being
20 abused as children and the like that then setup a
21 potentiation, and then you get into the current situation
22 and you can have a number of stresses that add up and
23 a precipitating factor that may push them over the
24 brink.

25 Now, the precipitating factor may be somebody

1 dwa

2 who feels that they are being violated.

3 It is more than autonomy; it is kind of a
4 sense of violation.

5 Q Isn't it also a sense of impotence and a
6 lack of powerlessness and a lack of worth.

7 A A lack of power, not lack of powerlessness.
8 But those are elements that will contribute to it.
9 But the sense of what prompts soembody to strike out
10 as opposed to somebody else to strike in, because often-
11 times the same elements will prompt somebody to hurt
12 themselves as opposed to hurting someone else.

13 And oftentimes people won't strike out but they will
14 put the lid on and may show the pressure in other ways,
15 by physicalness.

16 Q Is it fair to say that work is a primary
17 outlet for aggression in our society?

18 A Yes, that's something that I've often said
19 is one of the major outlets that we -- by which we deal
20 with our aggressive energy.

21 Q Is it also fair to say that inmates as well
22 as other people need life spaces or privacy places
23 that they can be by themselves?

24 A I think that's a reasonable assumption.

25 Q When you have toured other prisons you

1 dwa
2 MCC. In that context one of the things that was --
3 that became evident psychologically is that these people
4 really were vulnerable to a kind of acute reaction
5 to the sense of being violated by their personal space.

6 You know, I could walk down a range and talk
7 to those people and I could talk very comfortably, as long
8 as the bars were shut and they knew they couldn't do
9 anything to me. The problem is what happens when
10 a person is then without some kind of physical barrier.
11 It's as if part of the problem is really making sure
12 the barriers are distinct so that the person cannot
13 violate that barrier and is reassured and controlled
14 by it. In that setting then it may be very important
15 to have a clear physical separation and noncontact
16 visiting.

17 But that's a far cry from the situation of
18 Metropolitan Correctional Center.

19 Q So it is fair to say that when you make these
20 assessments you look at the security needs and then
21 you determine how to balance that off, is that right?

22 A I'm looking at the psychological needs of
23 the individual, the security needs of the institution
24 and how those fit.

25 Q So you brought both those elements of the

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1
2 with her recently.

3 MR. MUSHLIN: I have no further ques-
4 tions.

5 MR. YOUNG: Could we just have one minute?

6 (Pause.)

7 BY MR. MUSYLIN:

8 Q Doctor, is it possible as a physician --
9 is it possible to detect whether or not an individual
10 is taking drugs by administering a test, such as a urine
11 analysis test?

12 MR. SCHAFFER: Objection.

13 Q Or is under the influence of drugs?

14 MR. SCHAFFER: It goes beyond the scope
15 of everything touched on on direct, your Honor.

16 THE COURT: I'll just allow that.

17 A There are increasing capacities to
18 measure the presence of certain substances by urine
19 analysis, but they are still limited more often in terms
20 of blood determination, but you can assess some.
21 There are some you can't.

22 Q When you -- you have worked as a paid con-
23 sultant for the Federal Bureau, have you not?

24 A In recent years, yes.

3 Q One of your duties, is it fair to say, as

MR. CORSI: The Government calls Gary Mote.

- -

G A R Y M O T E , called as a witness by the respondents, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CORSI:

Q Mr. Mote, what is your position?

A I am currently Associate Director of the Federal Bureau o Prisons. I am responsible for the Division of Planning & Development.

Q What are your duties and responsibilities in the Division?

A Responsibilities within the Division include the facility development program, operations, physical operation of the existing institutions.

Our advanced planning activities, financial management, budget preparation, research activities.

Q How long have you held that position?

A Approximately five years.

Q Prior to assuming that position, what position did you hold with the Bureau of Prisons?

A For perhaps 18 months to two years I was Chief of the Office of Facilities Development.

This planning began in the early 1960's and we requested funds from Congress for planning I believe in 1964 and funds were approved for the fiscal year 1965.

Those funds were primarily for the purpose of obtaining a site, investigating potential sites and ultimately acquiring a site and beginning very preliminary planning for the facility.

Q Can you elaborate then what the purpose for the planning and design of the MCC was?

A Well, the basic purpose for the planning and design of this new facility was a need to provide a facility as mentioned earlier, for the pretrial, pre-sentence short-term sentenced detainees, primarily for districts in this area.

Also we had an extraordinarily inadequate, obsolete facility that was formerly a garage at West Street and converted I believe in the 1930's to a detention center and was a very bad place for people to be confined. We felt that it was important that that facility be replaced.

Q When did the detailed planning and design phase of the MCC begin?

A The more detailed planning for the facility began in the fall of 1970, when it became apparent that

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Mote - direct

Congress was going to approve funds for this facility and we felt that we were going to acquire a site for it.

At that time we had several different projects beginning all at that point, one type of which -- several different types I should say -- one type of which was the Metropolitan Correctional Center.

We established a planning team to review the problem, to understand the nature of the problem, the inmates, their social, legal, civil, educational criminal history backgrounds and to prescribe for us a set of functional requirements and general architectural requirements from which we could proceed to more detailed design.

Q When you indicate that a team was brought together for this function, what disciplines were involved in that team?

A It was an interdisciplinary group. Five of the members were from the staff of the Federal Bureau of Prisons who were detailed from their regular assignments to what turned out to be a 90 to 120-day assignment.

Two of the members were psychiatrists. The other three had various kinds of correctional program experience. We also had an architect who was one of the

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staff of the National Institute of Mental Health who participated in that team.

The way we were organized was that by pairs, one pair had a prime responsibility for a specific type, such as the Metropolitan Correctional Center.

Two of these individuals had this primary responsibility, although the team at large interacted and consulted with one another in terms of determining the requirements.

Q Approximately when did that team perform its work?

A This occurred through the fall of 1970, fall and early winter of 1970.

Q To whom was this team responsible for reporting?

A I was their immediate supervisor, although they were responsible for reporting to the executive team of the Bureau of Prisons, which included the Director and the Assistant Director.

Q Did the team embody its work in a written statement?

A Yes, they did.

Q Approximately when was that statement prepared?

A It was prepared, I think it was finally prepared in December of 1970.

Q Mr. Mote, I am showing you what has been marked as Respondents' Exhibit CCC and ask you if you can identify that document?

A Yes, this is the document to which I was referring.

MR. CORSI: The Government would offer CCC into evidence.

MR. MUSHLIN: No objection.

(Respondents' Exhibit CCC for identification received in evidence.)

Q What function was that document to serve in the planning of the MCC?

A The purpose of this document was to synthesize a variety of materials that had been collected and to determine the functional needs of a new Metropolitan Correctional Center and to provide a general statement of architectural requirements -- not specific requirements such as specific kinds of rooms or areas but general architectural requirements.

Q What constraints did the Bureau of Prisons face in attempting to plan and design the MCC?

A Well, outside of resources which are also scarce, probably the most significant constraints that we had had to do with the building site itself.

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difficult to supervise individual's movements, as opposed to being able to watch traffic go down corridors or across open spaces between buildings.

You cannot have the casual supervision that you can get in low-rise construction.

Q Were any other groups or individuals involved in the planning and design phase in or around the time of 1970, 1971?

A Yes, a variety of people were involved to one degree or another in the general planning and design of the facility.

Outside the immediate staff, the more technical staff within our division, of course, the program managers throughout the Federal Bureau of Prisons system participated, particularly in the areas for which they have immediate concern, such as the Chief of Correctional Service being concerned about inmate traffic and movements and flow and security issues as well as staffing patterns.

The food service administrator for example, would be more intimately concerned with all of the operations concerning food service. All of these individuals participated in this process.

We also had others outside the Bureau of

prisons who provided some input into the planning.

At least they were apprised of the general concepts and we solicited their advice and counsel.

Perhaps the most significant group that worked with us concerning the planning of these facilities, the MCC's as well as all other facilities, was a national advisory panel that was appointed by the Attorney General in early 1971.

This advisory panel was established to assist the Bureau of Prisons in analyzing its long range facility requirements and to advise us on what directions we ought to take.

Q Who was a member of that panel?

A Mr. Robert Coutic, an attorney in Omaha Nebraska and the administrative assistant to Senator Hruska I believe in Nebraska who also at the time or shortly thereafter was the vice-chairman of the American Bar Association's Committee on Correctional Facilities and Planning.

Also Dr. Herbert Quay, a psychologist at Temple University.

Dr. Walter Menninger was on the committee, a psychiatrist with whom you are familiar.

An attorney by the name of William Dunn who at

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that time was the executive director of the Association of General Contractors of America; a private engineer from Milwaukee, Wisconsin whose name was George Dolan, and the Chief of the United States Probation Service, Mr. Merrill Smith.

Later that panel included the Director of the Board of Parole who was Maurice Seigler.

Q What role did the national advisory panel have in the planning process?

A Well, I assume that question is directed to the MCC itself as opposed to more general planning?

Q Yes.

A That committee reviewed with us the general concepts and general requirements and I felt confident that we also circulated the copy that you just presented, the tentative outline of the architectural requirements to this group and discussed the merits of the proposal.

Also, during the conceptual design stage, the physical planning of the facility they participated in a review of those documents and offered us their advice and counsel.

Q Who received the architectural commission for the MCC?

A The Gruzen partnership of New York City.

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Q When approximately was that?

A Either very late 1970 or January of 1971.

Q Did there come a time that Gruzen presented a written statement to the Bureau of Prisons embodying the architectural program for the MCC?

A Yes, there did.

Q When approximately was that?

A In the spring I think, April 1971.

Q Mr. Mote, I am showing you what has been marked as Respondents' Exhibit DDD and I ask you if you can identify that document?

A Yes, this is the document I was referring to.

Q The architectural program prepared by Gruzen?

A Yes, it was.

Q Submitted to the Bureau?

A Yes.

MR. CORSI: We would offer this into evidence.

MR. MUSHLIN: No objection.

(Respondents' Exhibit DDD for identification received in evidence.)

Q Are you familiar with the final architectural plans for the MCC?

A Generally, yes.

Q Do those plans incorporate the concepts set

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forth in the Bureau of Prisons' statement as well as the Gruzen statement?

A Yes, they do, with very minor differences.

Q What kinds of modifications will be reflected in those plans?

A I would say that most modifications that would have occurred are very minor things, such as partitions being changed to reflect unforeseen conditions or doors being added or subtracted.

The most significant change that I can recall had to do with the planned space for women detainees.

In the original concept it was our early intention to have a group of 16 rooms that would serve the women detainees. During the course of the construction our population pressures were mounting, we felt that we needed all the capacity that we could get.

Also, we felt that we could contract for the detention of women detainees through the local governments here and we made a decision to omit that special feature.

The physical impact was the removal of some partitions which allowed it to function separately from the balance of one of the functional units.

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group of individuals, inmates, as opposed to a large group of several hundred or more, assign a staff that specifically work with that group of individuals so that there can be closer understanding of one another's problems. The closer interpersonal relationships foster better communications.

We found this to be a very successful form of management. We have gone to it or in the process of going to it throughout the federal prison system, except in a very large, antiquated federal penitentiary of Atlanta, Leavenworth and McNeil Island in Washington we are unable to do that.

Q What factors underlie the application of that concept to the MCC?

A Well, first, I'd have to say that most of the planning staff that worked in that team I described earlier did not initially think of using a functional unit approach for a detention center. One of the members of the team brought it to light on one occasion, and from that point considerable discussion and debate ensued.

It was finally decided that it was a viable approach. In fact, what we thought would be a very effective approach for a detention center. Aside from

the general advantages that I described earlier, it had particular application for a detention center because of the need to provide for a certain separation of presentenced inmates from sentenced inmates, youths from adult, women from men, and so on.

Q How widespread, based upon your knowledge and experience in the field, is the use of the functional unit concept in the design of correctional institutions and detention facilities?

A Well, even to this day, outside the federal prison system it is fairly limited, although I would simply have to say I think it is catching on throughout the country, certainly for correctional institutions for sentenced inmates. And I know of several situations, at least two, where it is being used for detention facilities as well.

Q What situation is that?

A An example is at Wayne County in Detroit, Michigan. I'm aware that the officials there have vacated a plan that they had earlier, a preliminary design that they had earlier, which was built along more traditional lines, and now plan to utilize a concept very similar to what we call functional unit management.

1 dwa

2 Perhaps the area of recreation was the most signifi-
3 cant. We considered the option of having a centralized
4 gymnasium as opposed to having separate physical
5 recreation areas located within each functional
6 unit. We also felt it would be important to have a
7 recreation space similar in size to a small gymnasium
8 located perhaps on the roof or somewhere where there
9 would be exposure to the outside elements.

10 We felt it was important for people periodically,
11 hopefully once a day, to have some exposure to fresh
12 air and, hopefully, sunshine or even snow perhaps
13 at times. We felt that there was more accessibility
14 by the inmates if we would decentralize functions
15 such as this so that, for example, they could have access
16 to weight lifting or gymnastic equipment on virtually
17 at their own will, whenever they chose to do it during
18 the day.

19 In addition, we would have this rooftop
20 recreation to which they could go on a supervised
21 basis, as I say, hopefully once a day.

22 Q What factors led you to conclude that the
23 decetralized solution was the more appropriate one
24 in the setting?

25 A Well, I'd have to say that ideally if one

1 dwa
2 had unlimited, totally unlimited, resources, you would
3 have a central gymnasium as well as outside recreation
4 space and some recreation within the functional unit.
5 We felt that because these periods, these periods of
6 stay being in the parameters I described earlier,
7 that it was not an effect, cost-beneficial use of
8 resources to a centralized gymnasium when they had
9 these facil. t their disposal.

10 Q What, if any, are the movement or trans-
11 portation problems that are commonly associated with
12 centralized facilities in a detention center?

13 A Well, typically, in a facility of this type,
14 where you are -- where, in addition to the security
15 requirements, you are trying to maintain a separation
16 between classification of offenders, it means that if
17 you have movement to centralized facilities, that it
18 is a supervised kind of movement, and by its very nature
19 it results in a more regimented order of the facility.
20 Inmates do not have free access to go back and forth
21 between these facilities.

22 Q What factors underlie the design of the
23 rooftop area for recreation?

24 A Well, the general intent for the rooftop
25 recreation was to provide at some location a place compar-

1 dwa

2 generally we would expect 25 --

3 MR. MUSHLIN: Your Honor, I'm going to
4 object. He's really into speculation now. He said
5 he just doesn't recall.

6 THE COURT: When you say what you would
7 generally expect, what are you going to base that on,
8 Mr. Mote?

9 THE WITNESS: Just general experience
10 and observations of --

11 THE COURT: I'll allow it.

12 Q What were those assumptions?

13 A Well, those assumptions were that perhaps
14 25 per cent to a third of the population would choose
15 to use such facilities given the choice at any given
16 time.

17 Q In designing that facility were assumptions
18 made as to whether or not that facility would be used on
19 a scheduled or on a nonscheduled basis?

20 A So definitely we had planned that it would
21 be on a scheduled basis because of the need for
22 supervised access to these facilities.

23 Q What constraints, if any, did the Bureau
24 of Prisons face in providing outdoor recreation at the
25 MCC?

A Well, given the fact that we had a very small urban site we obviously were not allowed to have such outdoor recreation at ground level. So the options would be to have space either at an intermediate level or at the rooftop for this purpose. It was more economical and, we felt, just as satisfactory, if not more so, to locate it on the roof.

Q What, if any, consideration was made for indoor activity for inmates?

A Well, each of the functional units have a recreational space that was set aside for that purpose. We also have a very large multipurpose space which serves a variety of purposes. It serves for watching television, for playing games such as ping-pong or pool. It also serves for dining. This multipurpose space, I might add, is several times larger than the standards that were prevailing, certainly at the time we were designing that facility. I'd say in the order of six to eight times more space was provided than would have been provided in a traditional kind of jail.

THE COURT: Mr. Corsi, either now or in a couple of minutes, I think we ought to stop for lunch, whenever you are at suitable breaking

city that space should be given up for pretrial or short-term sentenced detainees it would also be used for that purpose. We would contract for the CTC's anyhow but that is throughout most of the country anyway.

The point here is that the general security or the envelope security for this facility likewise has certain features so we have flexibility.

Q There is testimony here in this case that the MCC is the most confining form of architecture and design amongst detention facilities.

Do you agree with that assessment?

A I absolutely do not agree with that assessment. I think I could best respond to it by describing the state of the art at the time that we were designing this facility, which could only be characterized in my view as zoo-like or cage-like architecture with the keepers separated from the kept behind steel bars and virtually in every instance.

Where inmates were placed inside the cage rooms usually but not always, but usually immediately outside of those rooms was a circulation space which doubled for a day room. These also would be barred, cage-like and then the staff correctional officers would be beyond this point.

rs6

Mote - direct

1
2 So there was separation and usually a
3 mechanical device operated remotely to separate inmates
4 and staff and mechanical devices usually operated which
5 further separated any interpersonal contacts between
6 inmates and staff.

7 I think that the very nature of that kind of
8 design indicates you are going to have a regimented kind
9 of environment. That certainly is not the case here.

10 We very candidly and I think it is a matter --
11 if it is not a matter of record it is certainly a matter
12 of recollection on the part of many people that we advised
13 our architects when they began planning, we gave them the
14 mandate not only from our staff but also from the
15 national advisory panel, that we wanted them to break
16 tradition and get away from the traditional jail design,
17 to plow new ground if you will and try to create an
18 environment that was a lot more human, a lot more normal,
19 and less destructive or corrosive, if you will, given
20 the fact that probably any kind of detention has some
21 negative aspects to it.

22 Certainly to try to minimize any corrosive
23 effect of detention or incarceration.

24 Q What was the initially intended use for the
25 dorm units on 11 South?

1
2 A The dormitory use on 11 South was originally
3 intended for the Immigration & Naturalization detainees
4 whom the Bureau of Prisons did not have responsibility
5 for, at least in the mian. We did provide for a very
6 small number at any given time who required custodial care as
7 opposed to just general detention.

8 Q Did there come a time when the INS cases
9 were excluded from the MCC?

10 A Yes. During the latter stage of construction,
11 the last few months as I recall, it became apparent to us
12 that we needed more capacity for other types of detainees.

13 Q What other types of detainees?

14 A Pretrial detainees and short-term sentenced
15 detainees, those people serving writs. Not community
16 treatment center types because we had about the same time,
17 as I recall, made the decision that we would have to
18 utilize that space in addition also.

19 The point is that we recognized at that time
20 that we did not have sufficient capacity to house these
21 other kind of detainees as well as the general purpose
22 Immigration and Naturlization detainees.

23 Q Basec upon your experience and knowledge in
24 the field, does that initial decision of a dorm unit as
25 an INS unit, does that preclude its use for other

rs8

Mote - direct

categories of inmates who would be confined at the MCC?

A Not in my opinion, no.

Q What is the basis for your opinion?

A Well, let me say ideally, if we are speaking of a distinction between dormitory space and private rooms, ideally there is no question but that the individual room is preferable, virtually by most correctional administrators in the United States.

But that does not mean that the dormitory space cannot be viable for certain parts of the population.

Those people who can function, we think successfully in a dormitory setting are those people that like in the case of INS people whom we think were not heavy security risks or not the kind of people who would be preyed on or preying on one another in the case of the kind of detainees we are talking about now and if we had the good classification we know the background and nature of the inmates that would be assigned there and we feel that we can preclude those who prey on others and preclude those being in there.

Also preclude those are very weak and susceptible to being preyed on. Largely it is a matter of good classification.

Q But speaking of the dormitory units at the MCC,

A 1659

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Mote - direct

was any reference made to any standards in the field of corrections or detention facilities?

A No, I can't say there were any standards that would specifically promote or identify a percentage of the population for a jail that ought to be in dormitories.

I think historically from an ideal point of view individual rooms are preferred.

It is largely a matter of scarce resources in trying to get the most out of your dollar..

Q So dormitory style housing is an accepted form of housing in detention facilities or correctional facilities?

A I think it certainly is.

Q On what do you base that opinion on?

A I think we have a lot of experience with dormitory-type housing in the Federal prison system and we don't find that we have a high degree of violence or negative behavior occurring in those facilities.

Those people that would cause problems are confined to private rooms or segregation areas if necessary.

Q At the time the MCC opened what was the rated capacity of that dorm unit?

A 1660

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Mote - direct

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A I can only give you a general ballpark figure because I don't recall a specific figure. That is in the range of 60. Each of the individual --

MR. MUSHLIN: I object, he says he can't answer.

THE COURT: Yes, I think we ought to be able to get a number like that precisely.

Objection sustained.

Q Mr. Mote, it has been stipulated in this case that on the final architectural plans for the MCC, the four clusters of residential rooms on the second floor were designated as part of a hospital unit.

Based upon your knowledge and experience, does such designation preclude the use of three of those clusters for non-hospital housing?

A In my opinion it doesn't so long as the rooms that are being used for that purpose are equal or better than other rooms, than the regular rooms.

But most importantly, so long as the circulation between those housing units and other units of the institution do not interfere with good medical practice for the balance of that unit.

MR. CORSI: Thank you, I have no further questions.

rs11

Mote - cross

CROSS EXAMINATION

BY MR. MUSHLIN:

Q Mr. Mote, you mentioned that the Advisory Commission was established in 1971?

A Yes, that is correct.

Q Did they make any recommendations that were incorporated into the final design of the MCC?

A I think that the nature of their recommendations were of a supportive nature. They reviewed the concepts and some of the more general details of our planning and concurred and endorsed those concepts.

Q As they existed, there weren't any changes made as a result that you know of?

A I can't say there were not. I suspect there probably were some changes made, probably more minor nature outside of the general conceptual design.

Q You can't recall what they were?

A No, I can't.

Q In the original design you talked about an area for women and I believe that area was going to have 16 rooms?

A That is correct.

Q Approximately?

A Yes.

1 of stay you wouldn't disagree with that, would you?

2 A I can neither agree nor disagree at this
3 point.

4 Q But the second point you agree with, is
5 that right?

6 A Yes.

7 Q About them likely to be less dangerous?

8 A Yes, absolutely.

9 Q Do you know whether there is a classifica-
10 tion system at work now in the dormitory at the MCC?

11 A I don't know from first-hand knowledge, but
12 I presume that there is.

13 Q So then are you saying that it is your
14 understanding that people who are maximum security
15 risks are not being held in the dormitories at MCC?

16 A I'd say that people whom the staff believed
17 would be likely to interrupt the good order of that
18 unit or to be violent or threatening to other people
19 would likely not be in that unit.

20 Q When you say people that are likely to
21 upset the good order, you are referring to maximum
22 security risks?

23 A Well, I don't know, maximum security can mean
24 many things. The person whom you are describing can
25

1 dwa
2 also be someone who is likely to try to escape, you
3 see, and not necessarily a threat to the people that
4 are on the unit.

5 Q Is it your understanding also that people
6 who might be weak or might be preyed on aren't being
7 housed in the MCC dormitory?

8 A I don't know first hand.

9 Q Let me ask you this hypothetically if the
10 MCC's dormitory were to be used as an admissions unit
11 for people, just off-the-street people, that you don't
12 necessarily know were housed, could you consider that
13 to be appropriate use of that facility?

14 A As long as the staff had available presentence
15 reports or classification material or soem means of de-
16 termining that they felt those individuals would not
17 be of a class I described, then I would have no problem.

18 Q But I'd like you to assume that that is pre-
19 cisely not the case, just hypothetically -- I know
20 that's not true right now, but assuming hypothetically
21 that people were housed in the dormitory on admission
22 to the MCC made from the street after being arrested,
23 people for whom you don't have presentence reports, people
24 whom you don't know, is it your testimony that that
25 unit would be inappropriately used for that purpose?

1 A I'd say certainly less than ideal.

2 Q It is fair to say, isn't it, that you didn't
3 intend the balconies on the housing units to be used
4 for housing?
5

6 A Fair to say.

7 Q Did you always intend to have dormitories
8 at the MCC or did that come in the plans at a later
9 point?

10 A No, those, as I recall, those require-
11 ments, were stipulated at the very beginning of the planning
12 concepts.

13 Q Would that be prior to the time that you
14 prepared the tentative outline for architectural perform-
15 ance, the December, '70 document which is in evidence?

16 A I'm not sure. I know that early in the
17 planning stages we made a decision to provide for the
18 Immigration and Naturalization detainees. I don't
19 recall specifically when it was made a part of the
20 active planning.

21 Q The document I was referring to is Exhibit
22 CCC in this case.

23 You intended, did you not, to have an
24 admissions unit at the MCC and that was in the tentative
25 outline in your original proposal for the MCC, is that

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Mote-cross

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Bureau, does the functional living unit plan to operate require inmates to be housed all the time on the functional -- in the area where the functional unit is?

A No, it does not. On the other hand, there are certain types of units in the federal prison system which have decentralized forms of management where inmates are locked up for long periods of time, and most of their time, except for outside recreation perhaps once a day or several times a week. So --

Q Where are those?

A We have a unit in Marion, Illinois that functions that way.

Q Are you referring to the control unit in Marion?

A That's correct.

Q Is it fair to say that the control unit is for the people that the Bureau has identified as the most dangerous and in need of the most close custody of any people in the Bureau?

A Generally, that's correct.

Q Out of the entire population of 23,000 people in the Bureau?

A Well, that is, that's generally correct. Those are the most difficult people.

Q Do you recall whether or not there was a specific direction in the minutes to the architects that the sally port area remain open until 10 p.m., not 5 p.m., for that reason?

A I really don't recall that.

Q You envisioned, did you not, that you were building flexibility into the design of the MCC so that some areas could be used for less than maximum security inmates?

A Yes.

Q Did not the Bureau, in the tentative outline, envision that the units would allow for open visits for certain of those inmates whom they have classified as less than maximum security?

A By "open visits," are you referring to what we call contact visits?

Q No, I mean -- yes --

A What are you referring to, as opposed to the traditional barrier visits?

Q I was referring to something else, Mr. Mote. I was referring to did not the Bureau envision that such visits -- that the units could be utilized in such a way that for certain inmates such visits could take place on the housing floors?

1 A That was a -- I think that was a specula-
2
3 tion on some members of the staff, but that was --

4 Q Was that speculation --

5 A I don't know. I feel confident that that
6 was not adopted as policy.

7 Q Let me ask you this: was that speculation
8 embodied in Exhibit CCC at page 42?

9 MR. MUSHLIN: Page 42 of CCC, the last
10 line.

11 A Yes. It is obviously speculated so that
12 we had flexibility for that kind of activity if it proved
13 to be feasible.

14 Q There is also an indication, is there not,
15 that a program could be developed for non-English-Speaking
16 inmates at the MCC?

17 A We had that flexiibility, yes, in the educa-
18 tion program.

19 Q Do you know whether such a program had been
20 developed?

21 A I do not know.

22 Q Are you familiar with the daily operation
23 at MCC? That is to say, who is held on what floors?

24 A No, I'm not.

25 Q Or the programs that are available to MCC?

A No, I'm not. My role in the Bureau --

THE COURT: Let's go on. You've asked him a lot of questions like that and we've had a lot of other witnesses who covered that or can cover that.

MR. MUSHLIN: Just one moment, your Honor?

THE COURT: Sure.

(Pause.)

Q You mentioned, when you were talking about the rooftop area, that there would be two -- I think you used the word "components" of the rooftop --

A Yes.

Q -- and one would be for active and one would be for passive areas. Was it envisioned that the passive area would be equipped in a park-like setting, with benches and the like?

A Not park-like necessarily, no, no landscaping.

Q Let me ask you what was envisioned would be available?

A For benches or chairs or things like that so the people could sit as opposed to playing basketball.

Q Did you intend in the housing design to have a common area for everybody that was going to be

Q Mr. Carlson, what graduate degrees do you hold?

A I have a Bachelor of Arts in sociology and a Master of Arts also in sociology, with concentration in

I spent a year at the Woodrow Wilson School of Public Affairs at Princeton as a mid-career fellow.

MR. SCHAFFER: Based upon Mr. Carlson's education, training and expertise we ask that he be qualified as an expert in the field of criminology and corrections.

MR. YOUNG: After our last objection I hesitate to make it but this gentleman is a party to this action, not just an expert and we object to his being qualified.

THE COURT: Certainly he is welcome to express his opinions. That just means that maybe I won't believe anything he says but that doesn't stop him from being an expert.

He is qualified.

Q Mr. Carlson, what is the present population of the Federal Bureau of Prisons facilities?

A 29,050.

Q What is the rated capacity of all those facilities?

A 22,500, approximately.

Q Do you know is there any facility within the Federal Bureau of Prisons whose population is below its rated capacity?

A Only several new institutions we just opened last week, a new institution in Memphis, Tennessee and it has not yet reached its capacity.

The other are all over capacity.

Q Does the problem of excessive population appear especially acute in any geographical region?

A Yes, the worst level is in the northeast region of the country.

Q Has any study been conducted by the Bureau of Prisons as to the expected duration of this condition?

A No. We found it extremely difficult to try to project prison population, it is a very uncertain art at best and difficult to project because we don't control who comes in or leaves the system.

Q Could you briefly describe what the trend of population within the Federal Bureau of Prisons facility has been starting in the early 1960's?

A It reached a peak of about 24,000 in 1962 and went down rather sharply until 1967 when it peaked out, the lowest point being 19,500.

Since that time, since 1967 it has been an

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Carlson - direct

upward cycle and, of course, the last two years has been unprecedented in terms of rate of growth.

MR. YOUNG: We object to this line of questioning. The only question before this Court is whether the overcrowding at the MCC creates an unconstitutional legal condition. I don't think what happens in the rest of the country is any more relevant to the respondents' case when it was when we were asking questions along this line.

THE COURT: You just better change your mind about that because it seems to me this is one of the hardest questions in the case.

I overrule your objection but alert you to the thought that that has run through my mind all through the 20 days I have been sitting here.

If there is overcrowding at institutions and if the judges keep insisting on putting everybody in prison, what do you do? I don't present that to you lightly. It is a terribly difficult problem on which I expect you to have some enlightenment when you submit your final brief.

Q Mr. Carlson, what are the reasons, based upon your knowledge and expertise, for the recent increase in population of the Federal Bureau of Prisons?

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Carlson - direct

A Two, first of all there are more cases that are being committed to our custody by the Courts for longer periods of time.

And also there has been a decrease in the number of inmates released to parole supervision.

Q At the time that planning first became for the Metropolitan Correctional Centers, what was the trend at that time in population for the Federal Bureau of Prisons?

A It had started to go up certainly not at the rate of growth that we have experienced in the last several years; relatively slow rate, flat rate of growth over the preceding five years until about 1975.

Q What steps, if any, has the Bureau of Prisons to alleviate this overcrowding situation?

A We have acquired three institutions which were not part of our system, taken over to narcotic houses and acquired a new institution for the State of Wisconsin and expanded the use of community treatment centers or Halfway Houses.

We expanded the expanded the capacity of our camps in other institutions so we try to do all we can internally to make additional bed space available.

I should add we also built new institutions

rs5

Carlson - direct

q851

and asked Congress and received funds to construct new institutions to take care of the rate of growth.

Q Mr. Carlson, were you involved in the design and planning phase of the New York Metropolitan Correctional Center?

A Yes, I was directed when it was designed and therefore had responsibility ultimately for the planning that went into it.

Q In that connection did you appoint the National Advisory panel?

A Yes.

Q What was the purpose of that panel?

A We wanted the Metropolitan Correctional Centers not only here but the other two that we built to be as new and as modern as they possibly could.

We didn't want them built strictly by us in the system but utilized outside resources to give us their input in that effort. Hence, we appointed the Advisory Committee that met with us on a regular basis for a period of nearly two year and reviewed with us virtually every step of the design of the facilities.

Q In connection with the design of the Metropolitan Correctional Centers did you also engage in consultation with the Courts?

Carlson - direct

rs6

1 A Yes, we did, in each of the three cities we
2 met regularly with the Court.

3 Q The case of the New York Metropolitan
4 Correctional Center, with whom did the consultation take
5 place?

6 A I recall mt first meeting was with the former
7 Chief Judge Sugarman and also Judge Tyler who I believe
8 at that point was appointed by the Court to be liaison
9 with us in terms of acquiring the site for the facility.

10 Q Did the Court make some input into the
11 planning of the MCC?

12 A Yes, they gave us suggestions. We didn't
13 go to them with every drawing, for example that was
14 eventually accepted but with the general concept and
15 received their input and suggestions as we went along.

16 Q Any specific instances where the Court made
17 specific contributions?

18 A Yes, the site selected was actually suggested
19 by Judge Sugarman as I recall it. That was obtained as
20 a result of his suggestion.

21 Q Was there any particular reason for the
22 selection of that site?

23 A Yes. The Court here that we dealt with, the
24 judges we dealt with and in other cities as well felt very

rs7

Carlson - direct

definitely that the facility should be as close as possible to the Federal Court House; just as close as we could possibly arrange it to the Court House itself.

Q In planning for the New York Metropolitan Correctional Center, was it planned from the outset to be designed as a functional or modular-type institution?

A Yes, together with our other new institutions which were started subsequent to 1970 they were designed for functional management as a key concept.

Q To the best of your knowledge what was the ingredient of that functional or modular concept?

A To break down a large institution into smaller subsystems or subinstitutions.

To assign staff directly to that unit to maximize the contacts between staff and inmates incarcerated in the unit.

Q Mr. Carlson, there is testimony in this case that the New York Metropolitan Correctional Center presents the most restrictive form of confinement possible. Do you agree with that statement?

A No, not at all.

Q On what do you base your disagreement?

A On other institutions operated by the Federal

rs8

Carlson - direct

Bureau of Prisons as well as other State and local institutions that I have had a chance to see over the years.

Q In what ways are those institutions more restrictive in their form of confinement?

A Inmates in the MCC are only in their individual rooms eight hours a day. The rest of the time they have freedom to the multi-purpose areas.

In many jails in the country inmates are confined in a jail or cell or gang-type of lock-in situation virtually 24 hours a day.

They eat their meals there and everything right within the confinement and have very small, totally segregated cell-type of environment.

Q Mr. Carlson, it has been stipulated in this case that movement with the New York Metropolitan Correctional Center is limited to movement within the modular unit except during visits to the Hospital area and to the roof recreation area and to the Courts and that all such vertical movement within the institution is under escort.

Do you have an opinion as to the necessity or the appropriateness of this practice at the New York MCC?

A Yes. it was designed initially to serve

1 rs9 Carlson - direct
2 that very function, to break down the large institution
3 into smaller units so we could separate inmates from
4 large groups.

5 In a jail-type environment you have many
6 inmates that have to be separated from other inmates for
7 a variety of reasons. The functional units permit
8 us to do that with relative ease.

9 Q Are there any security reasons for the
10 restriction on vertical movement within the MCC?

11 A Yes. A security reason does exist. Inmates
12 are kept in fairly small units where they can be supervised
13 rather than have the availability of a large geographic
14 space where they can become involved in activities
15 that are in violation of the policy of the institution.

16 Q Mr. Carlson, what is the shakedown period for
17 a new institution?

18 A It depends on the type of institution.
19 For a brand new facility such as the MCC, a totally new
20 concept in correctional design, it is obviously longer than
21 if we just make a replica of a traditional institution.

22 This was the first of a series of institutions
23 built with the unit concept where we adopted this system,
24 for a detention facility.

25 Yet together with other changes made it

rs10

Carlson - direct

1 obviously prolonged the shakedown period. As far as I
2 am concerned, it is still going through the shakedown
3 process.

4 Q Could you define for us what you mean by a
5 shakedown period?

6 THE COURT: I know what that means.

7 Q Mr. Carlson, what if any procedure exists for
8 the review by the Bureau of Prisons of the operations of
9 its correctional facilities?

10 A We have basically an administrative structure
11 that is based on a regional concept.

12 We have a regional office in Philadelphia that
13 is responsible for supervising institutions in the north-
14 east area.

15 They have staff assigned to all key areas
16 in the program areas of the institution and make audits
17 regularly or inspection trips to all the institutions to
18 insure that the institution is following the policy of the
19 Bureau of Prisons.

20 Q In what areas do these review or audits occur?

21 A All areas, from mechanical services, medical,
22 food service, case work services.

23 Q In cases where deficiencies have been found,
24 what kind of corrective action is taken?

A 1679

Carlson - direct

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1 A We have taken a variety of steps, all the
2 way from moving key personnel out to other institutions
3 and bringing in new personnel we felt could do the job
4 better to expanding the level of resources allocated to
5 that institution.
6

7 There are a whole host of changes that could
8 be made, both in terms of change of local procedures and
9 changes in staff and the level of resources allocation.

10 Q Are the periodic audits or reviews of
11 institutions made available to you personally?

12 A I see a summary of all the routine audits.
13 I don't read the entire audit but I have an opportunity to
14 see the summary page which is a digest of the basic
15 findings.

16 Q To your knowledge have such reviews and audits
17 been conducted at the New York MCC?

18 A Yes, they have.

19 Q What areas, do you know?

20 A I am sure in all areas of operation that I
21 mentioned; the various programmatic areas.

22 Q Has the Bureau of Prisons a policy with respect
23 to administrative detention?

24 A Administrative detention is a concept of
25 confining offenders who the staff feel are likely to cause

rs12

Carlson - direct

serious disruption within the institution and temporarily housing of them until such time as their case can be reviewed by the institution committee.

Q What is the rationale behind this policy?

A We try to operate our institutions as open and free as we possibly can.

I personally feel that the vast majority of inmates want to get along within the rules and regulations and be protected from other inmates.

There may be other inmates who do not want to conform to the regulations and we feel to provide as free an environment as possible we sometime have to segregate out for short periods of time those unwilling or unable to conform to the rules of the institution.

Q In your view what is the importance of that to the running of the institution?

A It is absolutely essential if you are trying to accommodate the vast majority of the inmates who want to do their time without pressure or involvement in any sort of disciplinary activity.

Q Do Bureau of Prisons personnel receive trainings or instructions in the use of administrative detention?

A Yes, they do, in both the basic course for new personnel and our refresher program for all existing

employees, we provide the inmate disciplinary policy which includes administrative detention as well as a whole range of activities in our system.

Q Does the Bureau ever undertake any review or audit of disciplinary proceedings on the use of administrative detention?

A It is part of the routine inspection service that we review the process and procedure and generally sit in on a case and make sure it is handled in accordance with the rules and regulations.

Q Mr. Carlson, what is the policy of the Bureau of Prisons with respect to the writing of incident reports?

A First of all we try to settle matters on a local basis if at all possible. We encourage staff if they can resolve a disciplinary incident without reverting to an incident report, we prefer that type of action, in other words, try to reduce the amount of paper work and reduce the amount of formality involved if it can be handled by counseling or other activity on the part of the staff member involved.

That is the first course of action. Beyond that, of course, we do have a formalized procedure involving forms which are required to be filled out by the

rs14

officer and staff member who observed the incident.

Q Mr. Carlson, do you have an opinion as to the appropriateness from a correctional standpoint of visiting within the living units at the New York MCC?

A Do you mean inmate visiting on the unit --

Q I mean family or visiting inmates within the living units?

A I would think it would present a very serious custodial problem and also would deprive the other inmates to access to the multi-purpose areas if they were used for visiting.

Q Mr. Carlson, do you have an opinion as to the appropriateness or necessity of a strip search procedure after contact visits, including a rectal examination?

A Yes, I think if you permit contact visits in an institution such as the MCC, you must require a strip search in order to prevent the introduction of major contraband into the institution.

Q Is this a standard practice throughout the Bureau of Prisons?

A In all our Metropolitan Correctional Centers and a vast majority of the institutions it is required.

Some of the minimum security camps or treatment centers obviously have the option of not using it under

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those circumstances but those are a different type of institution and offender confined there.

Q Does the requirement of a strip search procedure a deterrent to the introduction of contraband?

A I believe it is.

THE COURT: What do you base that on?

THE WITNESS: The volume of contraband that is introduced into institutions is at a fairly low level. I have never, of course, worked in the State system that didn't provide a strip search but I think based on our experience there must be a deterrent effect or we would have a tremendous volume of contraband, drugs and other type of contrabands introduced into our institutions.

Q Is it your view, Mr. Carlson, that if the strip search procedure is to be effective it has to be automatically applied to all inmates?

A Yes, I think if we are going to segregate out one group only for the strip search they are putting pressure on the other inmates and they can intimidate them to bringing in contraband items knowing full well that the other group may not be subject to the same degree of physical search.

Q Mr. Carlson, do all of the facilities of the Federal Bureau of Prisons use some type of uniform for

1 inmates?

2
3 A Virtually all institutions do. Again,
4 community treatment centers do not; some of the youthful
5 institutions permit greater latitude on the part of
6 inmates.

7 But our Metropolitan Correctional Centers
8 and other places, we define as pretrial detention, they do
9 provide a uniform.

10 Q In connection with the MCC's, do all of the
11 MCC's use the jump suit as a uniform?

12 A Yes, they do.

13 Q What reason is there for that uniform?

14 A This was initially selected by the staff of
15 the first MCC to open San Diego.

16 They looked at a variety of different uniforms
17 that had been provided, discarded a lot of other jail
18 customs such as the blue denim with stripes and numbers
19 on them.

20 We also discarded the khaiki's which were used
21 at most institutions for a variety of problems with them
22 and decided that the jump suit would provide the greatest
23 degree of normalcy in the institution and at the same time
24 enable them to identify in custody.

25 Q What are the reasons for uniforms in a correc-

1 rsl7

2 tional institution?

3 A The custody requirement that we identify
4 inmates by type of uniform they wear. It separates the
5 inmate from the staff member of the institution and also
6 the visitor who may be in the institution.

7 Beyond that we feel it is important that
8 we treat all inmates the same, the haves and the have nots
9 who will have the same wearing apparel while confined.

10 We have some inmates committed that can afford
11 very elaborate wardrobes and others who are picked up with
12 only the shirts on their back and the uniform does permit
13 us to treat all inmates in a like manner.

14 Q Are there any security problems associated
15 with allowing inmates to bring in clothing of their own?

16 A Very definitely narcotics, currency, other
17 contraband could very easily be secreted in the lining of
18 coats and hats and other apparel and we have actually
19 detected a considerable amount of contraband from my
20 personal experience in the lining of clothes, for
21 example.

22 Q Mr. Carlson, what is the basis for the Bureau
23 of Prisons policy restricting the possession of personal
24 property to those items which are either issued by the
25 institution or can be bought in the commissary with a few

1 exceptions, such as shoes, socks, wedding bands and a
2 religious medallion?

3
4 A The primary one is security. The property
5 which can be brought in obviously presents the likelihood
6 or possibility certainly of the introduction of narcotics,
7 currency, weapons -- narcotics primarily.

8 Q What is the basis for the restriction on personal
9 property?

10 A Again, the amount of physical space available
11 in the institution certainly is a consideration and, again,
12 the have and the have nots issue, trying to treat all
13 inmates as equally as we possibly can is certainly another
14 consideration.

15 Q Mr. Carlson, what is the Bureau of Prisons
16 policy with respect to special diets for Muslims?

17 A We don't provide any special diet per se.
18 What we do is identify those items which either have pork
19 or pork products included as ingredients or which might be
20 prepared using pork substances, such as animal fat.

21 Q Have you made any efforts to minimize the
22 amount of pork used in the diets in the Bureau of
23 Prisons?

24 A I'm not an attorney but as I recall there
25 was a certain Court opinion out of the District of Columbia

ars

Carlson - direct

Circuit on the Muslim issue which spelled out the requirement.

Since that time we have minimized greatly the use of pork as a basic dietary substance and also our institutions no longer use pork fat but vegetable shortening as far as the preparation of food products are concerned. We tried to minimize the pork or pork products served.

Q What is the rationale for the policy, Mr. Carlson, of simply providing a pork-free rather than special alternative diet to Muslim inmates?

A To my understanding the Muslim religion does not have a specific dietary requirement in terms of a separate diet. My understanding is their religion merely requires they not eat pork or pork products.

Q Mr. Carlson, was there a time when Mr. Nagel met in this case and there was a conversation you and he had returning from a convention I believe in Chicago and Mr. Nagel testified that on that occasion you told him that you wished that you could have made some of the statements he goes around making? What is your recollection of that conversation?

A I recall the conversation. I know Mr. Nagel and I appeared with him on many platforms over the past seven or eight years.

dwa

Carlson-cross

you know that? Do you claim that?

MR. YOUNG: One of the purposes of this facility was to --

THE COURT: No, I know that, but if they are not getting enough cases to fill up the unit you don't mean they have got to leave it empty, do you?

MR. YOUNG: They don't have a diagnostic center. They are using it for another purpose.

THE COURT: You mean they have no diagnostic cases at all?

MR. YOUNG: Originally, ine part of the hospital unit was designed to perform these diagnostic services, studies, and so on.

THE COURT: I think you can bring that out through somebody else. Objection sustained.

Q Wasn't one of the principal functions of the MCC to serve as a community treatment center to enable people to reenter the New York area after they had been incarcerated?

A That was one of our initial design concepts.

Q Is the MCC being used for that purpose?

A No. We are still maintaining the community treatment centers which we had planned to merge

dwa3

Carlson-cross

1 into the MCC. However, because of population, we have
2 community base treatment centers as a separate function
3 of the Bureau of Prisons in this city.

4 Q Mr. Carlson, wasn't one of the purposes of
5 locating the MCC in an urban setting so that you could
6 make use of, say, university resources and so on that
7 would be available in the nearby area?

8 A Yes, sir, that is certainly a considera-
9 tion.

10 Q Is the Metropolitan Correctional Center
11 doing that?

12 A I believe they are. I was in the facility
13 this morning and met several young student teachers
14 who apparently make a regular visit to the institution.

15 Q Other than bringing student teachers in,
16 are you aware of any programs which enable inmates to
17 make use of, say, nearby college facilities?

18 A Study-release-type basis? Again, we use
19 the community treatment. We have two community
20 treatment centers here for inmates who are released
21 for part of the day to work or to go to school.
22 That's separate from the Metropolitan Correctional
23 Center.

24 Q But nobody at the Metropolitan Correctional

dwa6

Carlson-cross

1 we tried to locate in a metropolitan area is to utilize
2 fully whatever resources are available in the community.

3 Q Isn't it an opinion which you have expressed
4 repeatedly, that it is important to provide people who
5 are incarcerated with relevant work?

6 A Yes.

7 Q Isn't it true that you don't consider jobs
8 like maintenance or sanitation to be relevant work?

9 A As a general rule. Maintenance of course
10 in some areas can be relevant, but certainly sanitation
11 I would agree with you.

12 Q Isn't it true that you are trying in the
13 Federal Bureau of Prisons to get away from that as being
14 the only type of work opportunity available at MCC?

15 A Yes, certainly.

16 Q Isn't it true also that you are trying to
17 move away from things like license plate production
18 and that type of job because that's not really relevant
19 to what a person would do after he left the institu-
20 tion.

21 MR. SCHAFFER: Your Honor, I am going
22 to object again. Mr. Young can cover the whole
23 gamut of his amended petition.

24 THE COURT: I sustain the objection.

A 1691

1 dwal2

Carlson-cross

2 dividual rooms for every offender, with no mass living
3 situation and no group cells. . ."

4 Do you remember making that statement?

5 " I don't recall specifically, but I'm certain
6 that I probably made it.

7 Q But it is your testimony that you always
8 intended to have a dorm at MCC, is that correct?

9 A For a different purpose. It was designed
10 in this facility and the others to house the very
11 short-term immigration cases. As I recall the initial
12 planning effort we were to house the immigration
13 violators who generally were held for less than 24
14 hours. And I was referring in the testimony, of course,
15 to the regular committed population, those that were
16 essentially the cases that we had responsibility for
17 in the Federal Bureau of Prisons.

18 Q Are you aware that the dormitory unit at
19 MCC is being used to house people who are committed
20 there for a period of time?

21 A Sentenced offenders, that's correct.

22 Q You testified on direct about the grievance
23 procedures in the Metropolitan Correctional Center,
24 and the means by which inmates resolve grievances --

25 MR. SCHAFFER: Objection, your Honor, I

1 dwal5

2 A Yes, they are. As we have the funds avail-
3 able we are purchasing that type of uniform rather the
4 the surplus khaki military uniform that we have been
5 providing inmates in the past.

6 Q By the way, I assume from your direct testi-
7 mony that you feel the striped uniforms and the denims
8 and blues which are trademarks of our past periods
9 of correctional systems are degrading and are unacceptable
10 correctional practices, is that correct?

11 A Yes, I think that we should try to get away
12 from the traditions of the part, particularly in re-
13 spect to the denims.

14 Q Mr. Carlson, do you feel it it is important
15 that--first of all, are you aware of the fact that
16 in most of the units at MCC there is only one correctional
17 guard stationed there at any given time?

18 MR. SCHAFFER: Objection.

19 THE COURT: Sustained.

20 Q You testified as to overcrowding on direct
21 examination, did you not?

22 A Yes, I did.

23 Q Is it your opinion that overcrowding and
24 other conditions of prisons such as policies and pro-
25 cedures which dehumanize individuals, which I assume

1 dwal6

Carlson-cross

2 would be part of an overcrowded situation, tends to
3 create problems such as strikes, violent incidents,
4 tensions, even racial tensions.

5 MR. SCHAFFER: Object. Your Honor, could
6 we take one thing at a time?

7 THE COURT: That's a pretty big question.
8 You said it fast, Mr. Young.

9 Q Do you believe that overcrowding creates
10 tensions?

11 A Yes, certainly does.

12 Q Do you believe that it creates violent inci-
13 dents?

14 A It can contribute to violence. I don't
15 think it necessarily causes it.

16 Q Do you think it encourages inmates to partici-
17 page in such activities as strikes?

18 A Well, again, you know it's relative, you
19 know, how far overcrowded due to the circumstances.
20 It's hard to generalize. Let me say that we have not
21 had any significant problems in the Federal Bureau of
22 Prisons in the last several years and our population
23 is at an all-time high.

24 Q Have you been in the dormitory unit at MCC
25 recently?

1 dwal7

Carlson cross

2 A Yes, I was there twice today.

3 Q Do you believe that that's an overcrowded
4 section?

5 A I certainly do.

6 Q I believe you gave some testimony on direct
7 as to the level of security that you regarded at MCC
8 as being -- let me ask you this in your experience as
9 a correctional administrator: have you found that
10 it creates problems to transfer someone directly from
11 a maximum security institution to the street? In
12 other words, simply release them out into the street.

13 MR. SCHAFFER: Objection.

14 MR. YOUNG: Your Honor, there was testimony
15 on direct, I believe, about what Mr. Carlson -- what
16 level Mr. Carlson --17 THE COURT: I don't think that penalogical
18 thing is going to help us at all in this case.19 A But I did not testify that it is a maximum-
20 sedurity institution.21 THE COURT: But I have already ruled on
22 the objection, which is not --23 MR. YOUNG: I'd like that answer stricken.
24 I am having enough trouble getting answers to my own
25 questions in.

1 dwal9

Carlson-cross

2 considering his size and everything, he is going to.

3 Go ahead.

4 A No, there is a distinction between long-term
5 segregation, where people are locked up in a small
6 cell for long periods of time, from the status of the
7 administrative detention, which is very short-term
8 detention until such time as a committee can review
9 the case. I think there is an important distinction
10 between the two concepts. I was referring to long-term
11 segregation. I recall that testimony fairly specifically
12 and we were talking about the star program at Springfield
13 and the reason it was established, and that was to take
14 people who had been locked up for many, many months and
15 try to provide them with opportunities. It was not
16 referring to administrative detention, which by our own
17 policies, is fairly well limited in terms of duration.

18 Q Do you believe it is desirable to limit
19 administrative detention as much as possible?

20 A Certainly.

21 Q Do you recall that people should be locked up
22 in administrative detention or such minor violations
23 of the rules as malingering?

24 A I'd have to know the facts. I couldn't
25 make a, you know, judgment without knowing fully the

1 facts of the offense that occurred.

2 Q Isn't it true at this point there is no
3 limitation on the use of administrative detention.
4 In other words, there isn't a category of offense for
5 which it is permitted and a category for which it is not
6 permitted?
7

8 A You are right. It's a judgment made by
9 the shift supervisor generally based upon his observations,
10 his decision.

11 Q I believe you testified on direct concerning
12 the value of a strip search?

13 A Yes, I did.

14 Q Do you have any information that leads you
15 to believe that possession of drugs inside MCC is a
16 problem?

17 A There have been incidents, of use of drugs in-
18 side the MCC as there have been in all of our institu-
19 tions. It is a problem which is recurring, one that
20 we are much concerned about.

21 Q Isn't it your opinion that except for iso-
22 lated incidents of the introduction of drugs into
23 federal institutions it is not a substantial problem?

24 A That's right, partly because of the strip
25 searches and other techniques we use to maintain control

dwa22

fact that they do create that danger of drug usage?

A I don't believe I said that.

THE COURT: No, he didn't say that.

Q Do you believe that they do create --

THE COURT: No. Come on, let's go on

Q Isn't it true that the federal system has a urine analysis test which they can determine whether drugs are becoming a problem in the institution?

A Yes, they do.

Q Do you know whether those have been used at the MCC?

A I don't know if they have at this point in time. Our full policy goes in effect on April 15 which requires all institutions using urine analysis.

Q Wouldn't that be fairly effective in determining whether drugs were becoming a problem at an institution?

A It would be not only another deterrent but a way to measure the impact of the problem.

Q Mr. Carlson, when you were involved in the planning of the Metropolitan Correctional Center isn't it true that you wanted part of the rooftop area to be arranged in a park-like setting, with plants and tables and so on?

dwa24

Carlson-cross

1 rulings, stay within the scope of the direct.

2
3 MR. YOUNG: Your Honor, I would like to
4 touch on two areas which are outside of the direct and
5 if I could just explain why. One of them goes to
6 the questions concerning our protective order, and the
7 affidavit that Mr. Carlson submitted in support of that,
8 and I would like to ask him just two questions on that,
9 and I believe when your Honor discussed that you indi-
10 cated we could go into that.

11 THE COURT: All right.

12 Q Mr. Carlson, I believe you submitted an affi-
13 davit to this court in which you stated that you and
14 your staff were responsible for redesignating Michael
15 Gardner from Allenwood to Danbury?

16 A Yes, I filed an affidavit with the court.

17 Q Prior to deciding that redesignation were
18 you ever shown or advised of this memorandum, referring
19 to Petitioners' Exhibit 1, that exhibit?

20 THE COURT: What is that memorandum.

21 MR. YOUNG: It's the memorandum concerning
22 separation, your Honor.

23 THE COURT: Whose memorandum?

24 MR. YOUNG: It's a Bureau of Prisons
25 memorandum.

dwa37

Mussorfitti-direct

1
2 you also take a survey of inmates concerning the number
3 of Spanish-speaking inmates at the institution?

4 A Yes, I did.

5 Q Would you describe how you conducted that
6 survey?

7 A I went to each unit. I had an inmate who
8 was fluent in the language accompany me.

9 Q In the language meaning Spanish?

10 A Spanish, yes.

11 I checked only four Spanish, as far as the
12 inmates were concerned, and we spoke to each individual
13 with either a Spanish surname or with some indication
14 that there was some Spanish heritage there, and you
15 have the results of those findings. I went to
16 each individual unit, to each work area. I covered
17 the entire institution.

18 Q Did you also cover the roof recreation
19 area?

20 A No, I did not go to the roof, sir, but
21 there was no one on the roof while I was doing my survey.

22 Q What time of the day were you doing your
23 survey?

24 A All day long, sir.

25 Q Did you also go to the visiting rooms?

Mussorfitti - direct

rs2

(Respondents' Exhibit GGG for identification received in evidence.)

Q With respect to your summary sheet on page 1, Mr. Mussoffitti, above the first set of double red lines it states a total of 110 and then says Spanish surname or heritage.

Is this the total number of people you actually spoke to, 110?

A I may have spoken to more but those are the ones that were discovered to have either a Spanish surname or heritage. For instance one man was named McNamara but he was Spanish.

I also had a roster of the entire population on Saturday, 521 count.

Q It then says speaks Spanish, 160 and out of that 110 actually turn out to speak Spanish?

A That is correct. Some people with Spanish surnames did not speak Spanish.

Q It states speak English, 80 (some speak some English).

Can you explain that entry?

A They were able to communicate in English but didn't feel they were fluent so I didn't put them as speaking English but some English.

1 ars

2 H U G H M. B O W E N , called as a witness

3 by the respondents, being first duly sworn, testified
4 as follows:

5 DIRECT EXAMINATION

6 BY MR. SCHAFFER:

7 Q Dr. Bowen, what is your present position?

8 A I am a associate research professor at Stevens
9 Institute of Technology.

10 Q What field are you in?

11 A Psychology.

12 Q Will you briefly describe your educational
13 background?

14 A Yes. I took my undergraduate degree at
15 Cambridge University in England and then I came to this
16 country to continue my education at Johns Hopkins
17 University.

18 Then I returned to Cambridge to complete my
19 doctorate.

20 Q In what field is your doctorate?

21 A In psychology.

22 Q Any specializations?

23 A Not the doctorate itself, no, in general
24 psychology.

25 Q Since your doctorate have you specialized in

ars

Bowen - direct

any field within the branch of psychology?

A My two major fields are human factors science and environmental psychology.

Q Could you briefly describe what positions you have held since you have held since earning your doctorate?

A Yes. I was managing scientist at Dunlap & Associates for 15 years and during that time I was adjunct professor at New York University and Columbia University.

Q Dr. Bowen, I show you what has been marked as Respondents' HHH for identification. I ask you if you can identify that document?

A Yes. This is the resume of my professional work and history.

MR. SCHAFFER: We offer Respondents' HHH in evidence.

MR. MUSHLIN: No objection.

(Respondents' Exhibit HHH for identification was received in evidence.)

Q Dr. Bowen, I note that on Respondents' HHH are listed a number of research projects that you have personally been involved in.

Could you briefly describe what these have been?

A Yes. Probably the most relevant at the

1 dwa
2 ties?

3 A Yes.

4 Q Do you have a general opinion, Dr. Bowen,
5 as to how the environment-- shall we say, variety and
6 richness of the environment -- at the MCC compared to
7 the environments of those other conditions of confine-
8 ment to which you have made reference in connection with
9 the studies?

10 A Yes. They are a great improvement over
11 these others. They have many architectural features.
12 One has a definite sense of going from one type of
13 architectural environment to another one. The func-
14 tions are different in different places. The
15 single rooms are clearly bedrooms, personal and private.
16 The common area is where one socializes, has community.
17 There are other areas, such as the recreation and
18 educational areas, which clearly have their own function,
19 their own characteristics.

20 Therefore there is a considerable diversity
21 in the immediate environment. There is some color
22 change. There is the floor texture changes. There
23 are low spaces and there are high spaces. There are
24 little staircases to break up the space and to provide
25 demarcation points within that space.

1 dwa
2 In general it is a relatively rich environment
3 of many that I've seen.

4 Q Now, focusing your attention specifically
5 on the functional units and assuming that an individual
6 conducts all of his activities within those units, except
7 for roof recreation visits, which are scheduled once
8 a day for an hour, medical visits which occur as needed,
9 and court appearances which arise according to court
10 schedules, do you have an opinion as to the adequacy
11 of those functional units for the fulfillment of
12 the secondary needs of the inmates at the MCC such as
13 to preserve their mental well being?

14 A Yes, I certainly believe that they are
15 minimally adequate, and probably more than minimally
16 adequate. I can see the pattern of needs which I
17 referred to previously as finding adequate avenues of
18 expression in those environments.

19 Q Dr. Bowen, there has been testimony in
20 this case that the confinement of individuals to these
21 functional units under the conditions that I have just
22 described to you deprives them of sufficient autonomy
23 and choice such as to maintain their mental well
24 being. Do you agree with that description or charac-
25 terization of the modular units?

1 A No, I do not. Confining myself to the
2
3 issue of autonomy as expressed in choice behavior, I
4 think there is a very adequate range of variation of
5 behaviors which the inmates can choose. They can
6 choose to be private; they can choose to be public;
7 they can choose to be engaged in activities or they can
8 choose to be passive; they can choose to utilize the
9 programs, that is, educational, recreational programs,
10 they can choose not to.

11 Q Do you have an opinion as to whether the
12 functional units provide a sufficient environmental diver-
13 sity for the needs of the inmates?

14 A Yes, I have the opinion that either the
15 diversity, the plurality of the place is certainly
16 minimally sufficient and, indeed, more than minimally
17 sufficient.

18 Q Do you have an opinion as to whether, with
19 respect to the needs of the belongingness or socializa-
20 tion, the modular units are minimally or more than
21 minimally adequate?

22 A Basically the same reply. By my observa-
23 tion of how people behaved, the grouping of persons
24 that I saw, the kind of social interaction which I saw,
25 I would say that certainly the minimal belongingness

1 dwa

2 needs were being met.

3 Q Previously, Dr. Bowen, you made reference
4 to the need for privacy and in that connection you
5 mentioned as one aspect of privacy the possibility of
6 having a private room. Do you have an opinion as
7 to whether the inhabitation of a private room is always
8 and for all periods of time a necessary condition
9 for the fulfillment of privacy needs?

10 A No, I do not. A private room is certainly
11 desirable. The absence of a private room, however,
12 does not in my opinion constitute such a severe stress
13 that persons cannot cope with that stress for moderate
14 periods of time. A room in which a group lives is
15 not outside our normal culture. Many of us have
16 experienced this in a normal condition, such as the
17 Army, or the military, such as in schools, if we went
18 to such schools. For short periods of time it is
19 not uncommon to live in group conditions.

20 The studies of this kind of thing which I
21 know about seem to indicate that persons develop
22 defensive behaviors in the sense they by their be-
23 haviors both develop their own privacy and respect
24 other people's privacy.

25 This can only so far. A typical behavior

1 dwa

2 is the refusal to look. People don't peek, as it
3 were, at others when you are in a crowded condition.
4 That you respect even rather small signs of privacy,
5 such as a towel hung up over the end of a bed. If
6 a person is sleeping in the bed, then there is respect
7 not to disturb him, that kind of thing. These are
8 the sorts of adaptive and coping behaviors that are
9 possible. They will only go so far, though, and
10 depending upon the density of the population.

ars

Bowen - direct

Q Doctor. I would like you to assume that on occasion individuals who were possibly more susceptible to or have more difficult in adapting to dormitory conditions or may have been there for long periods of time, have requested to be moved to private rooms and that on occasions those requests have been granted.

Does that in any way affect your opinion as to the appropriateness of dormitory living?

A Yes. It is well established there are individual differences in response to crowded conditions. Some persons find it intolerable in a psychological sense rather easily and quickly. Others have more psychological capacity and cope more easily and, indeed, persons actually like it.

I think it is most important that some kind of selection or screening process be in operation for this sort of situation.

Q Doctor, I believe you testified that you had observed the dormitory unit on 11 South at the MCC?

In your opinion were there spaces within that unit which provided for the attainment of sufficient degrees of privacy outside of sleeping quarters themselves?

A There were in fact because on both occasions

rs2

Bowen - direct

when I visited, there were areas occupied by anybody. These were up in the balcony area near the recreation and educational rooms, I believe.

There were tables and chairs up there which were unoccupied so that if somebody had wished to remove themselves, be quiet, be private, virtually out of the sight of the rest of the inmates, they could have done so.

Q Dr. Bowen, I would like you to assume on occasion those balcony areas have been used for the temporary housing of inmates when there was insufficient room capacity;

That this occurred by placing folding type Army cots up there and that individuals were housed over a period of time ranging from a few days to as long as a few weeks.

Do you have an opinion as to whether such conditions of confinement constitute a pathogenic environment?

A They are certainly undesirable. You asked me whether they constitute a pathogenic condition. I don't really believe I can answer that because I didn't witness that specific condition.

If there was a serious intrusion on other activities, if the persons who were housed in this way,

1 rs3
2 were bedded down in this way had little or no opportunity
3 to maintain their privacy or could be easily observed
4 of that kind of thing, yes, then it would begin to border
5 on an intolerable stress and condition.

6 I think for a very short period of time as
7 a temporary expedient, we can all put up with this kind of
8 impingement.

9 For a prolonged period of time I would have
10 to give my opinion that it would be highly undesirable.

11 Q In this connection are you able to be more
12 specific about what you mean by a short period versus
13 long?

14 A Specifically with respect to putting bunk beds
15 on the balcony?

16 Q Yes.

17 A In that let's take the balcony being crowded
18 with beds, I would say that two or three nights would be
19 a period of time which I think this kind of expedient
20 could be tolerated.

21 Q You are referring to be tolerated by a
22 particular individual, that the particular individual
23 should not be there more than two or three days?

24 A Yes, and the group as a whole because it
25 affects the group as a whole community to have their

rs4

domain, their territory, overcrowded in this kind of way.

Q I am going to show you Respondents' Exhibit CC, which is a schedule of roof visits and of the educational classes.

I am going to ask you to assume that some but by no means all of the inmates work at the MCC in various assignments;

That those who are pretrial detainees generally work only within their own living units, primarily in maintenance and custodial capacities:

That there are additional entertainment programs brought in from the outside and that there are other activities on the unit which you observed in the various areas, the Ping-Pong, the television area, the billiards and so forth.

Do you have an opinion as to whether these activities are sufficient in number and in variety to satisfy minimal or better the needs for autonomy and choice by inmates incarcerated at the MCC?

A Yes. I have reviewed this document and similar documents, and reviewing this there is a considerable variety and divergent opportunity to engage in educational events, calisthenics and so forth like dance activities, sculpture.

1
2 I realize not every inmate has equal access
3 to these things. However, as far as I can judge from
4 this program, there is really a considerable, even an
5 abundant opportunity to engage in the diversity of
6 recreational and educational activities.

7 Q Dr. Bowen, do you have an opinion as to the
8 appropriateness of scheduling activity such as roof visits
9 and the like in terms of their impact upon the need for
10 autonomy and choice by inmates?

11 A Autonomy as balanced against the needs of the
12 structure, and I feel that a schedule for various
13 activities is very normal in our society and in the
14 college where I teach scheduling is a normal fact of
15 life. I see absolutely nothing unaesthetic about having
16 events scheduled.

17 Q In connection with the roof area which you
18 said you visited, do you have an opinion as to the
19 adequacy of the space and the facilities on the roof
20 recreational area for the satisfaction of recreational
21 needs of the inmates at the MCC?

22 A I would say it is adequate, far from idea.
23 That when one considers the basic ingredient of exercise
24 and playing sport gamesd, that it fulfills at least the
25 minimum requirement for running and stretching and

A 1713

rs6

Bowen - direct

2953

recreation activities with others, exercising your skills and muscular motor skills and in that sense it is certainly adequate.

I think that given a free choice we would all prefer more extended, green grass and so forth.

Q I believe while you were at the MCC you observed uniforms which the inmates wear and I would like you also to assume they are not permitted personal property at the MCC, except for their shoes and socks which they may bring in, a wedding band and a religious medallion and books or magazines which may be brought to them from the outside, as well as photographs of family or friends.

Do you have an opinion as to whether these conditions nevertheless permit a sufficient degree of personalization or an environment sufficient to satisfy the personalization needs of the inmates at the MCC?

A I think, yes, they accomplish a minimal degree of personalization. Not so much in the clothing but in the opportunity to identify your room and space with those things which are uniquely yours.

One of the things that I saw and really in a sense expected to see was apparently the longer the time the person has been there, the more personalized the space becomes, as he acquired possessions and displayed

1 rs7
2 them in his room.

3 I particularly recognized the lack of invasion
4 of rooms, noticed that the normal courtesies were observed,
5 namely, that people knocked on doors, they did not go
6 into the room without permission.

7 These are adequate signs to me that personal
8 space and privacy was being respected.

9 Q Did you also observe signs of personalization
10 within the dormitory units?

11 A Yes, I did, of a similar kind and, in many
12 cases, persons had attempted to do the best they could
13 under those crowded conditions to personalize their
14 space.

15 Q Do you have an opinion as to whether the use
16 of uniforms creates a pathogenic environment, particularly
17 with respect to the needs for personalization?

18 A I don't believe so. I base my answer on a
19 number of points.

20 One is that I didn't see any kind of patho-
21 genic behavior going on. As a visitor, inmates
22 presented themselves to me, it seems to me, with egos
23 very intact. They didn't shy away as it were or be
24 ashamed of their personal appearance.

25 Their grooming, their personal grooming, seemed.

1 rs8
2 to be of a relatively high standard. They hadn't
3 lost any self-respect in their image.

4 As far as I could observe on these two
5 occasions when I observed I don't know how many but
6 probably 2 or 300 inmates in all.

7 Secondly, I would say that uniforms in and of
8 themselves are a part of our culture and it is not
9 entirely strange, given that you are in a certain role
10 in society to be expected to wear a uniform.

11 Therefore, it isn't such a sharp change or
12 contrast or insult to be expected to wear a uniform.
13 Furthermore, I think the inmates themselves can see it
14 is a rational procedure from the institution's point of
15 view.

16 It is not simply a way of repressing them but
17 is a necessary ingredient to run the institution in an
18 effective, hygienic and other ways.

19 Q Dr. Bowen, I would like you to assume that after
20 visiting hours inmates are brought into what is referred
21 to as a shakedown room where they are asked to take off
22 their clothes, the clothes are thoroughly examined and
23 their bodies visually examined, including a visual
24 rectal examination.

25 Do you have an opinion as to whether this

1 procedure is consistent with or in conformity with one's
2 need for privacy?
3

4 A Well, it isn't a private act. It is in a
5 sense an invasion of privacy. The issue is whether it
6 is a serious invasion of privacy.

7 I think provided that the act meets the
8 following conditions I would consider it acceptable to the
9 ordinary, everyday person:

10 That it should be done by a single guard
11 with respect to a single inmate at any time. It should
12 not be more than that.

13 That it should be equitable, everybody should
14 be accorded precisely the same treatment. That on no
15 occasion must it be more than a visual inspection,
16 touching is not only prohibited but not be done.

17 I think also that it must be seen by all
18 concerned as a rational procedure and conducted in a way
19 that is a rational procedure, without any overtones or under-
20 tones of anything else.

21 As far as I can tell from my visits and
22 talking with the correctional officers, that all those
23 conditions --

24 MR. MUSHLIN: I object. He is now making a
25 conclusion as to --

Bowen - direct

rs10

1
2 THE COURT: Yes.

3 MR. SCHAPPER: He is simply giving what his
4 opinion is based on.

5 THE COURT: No. If he is going to tell now
6 about how they told him this procedure was actually
7 conducted --

8 Is that what you are going to tell us?

9 THE WITNESS: Yes.

10 THE COURT: I don't think we should have that.

11 Q Dr. Bowen, I would like you to assume that there
12 are periodic searches of rooms and dormitory areas at the
13 MCC and that on some occasions but not all inmates may
14 be permitted to observe the search?

15 But that on other occasions they are forbidden
16 from observing the search of their room or dormitory
17 area.

18 Do you have an Opinion as to whether this
19 practice creates intolerable stresses upon the inmate's
20 well being and in particular with respect to their
21 secondary needs for privacy?

22 A No, I don't think it is intolerable, with the
23 same kind of proviso I went through in answer to your
24 previous question, namely, that it should be a rational
25 procedure, equitable, no inmate should be picked out for

1 rsll

2 special searching except with due cause;

3 And that is a procedure that can be seen
4 to be within our culture and to be part of the ordinary
5 operation of the institution.

6 Q Dr. Bowen, among the units that you visited at
7 the MCC was the 9 South unit which included disciplined
8 cases and psychiatric observation cases.

9 A Yes.

10 Q Did you observe that area for those purposes?

11 A Are those the areas where the room are
12 slightly differently set up with the furniture bolted
13 down? Will you refresh my recollection?

14 Q I believe we are referring to the same area.

15 A Yes.

16 Q Do you have an opinion as to whether the use
17 of those areas for psychiatric observation cases and, in
18 particular, the inclusion of such individuals into the
19 general population on that unit, whether that is an
20 appropriate practice?

21 A Yes. I believe that is an appropriate
22 practice. It is a fairly general practice in the making
23 up of groups that both at psychiatric hospitals and in
24 work groups, that one prefers a heterogeneous mix and one
25 expects that the group will develop interpersonal supportive

1 fsl2 Bowen - direct 2959
2 mechanisms so that each helps the other one. So I think
3 it is appropriate.

4 Q Dr. Bowen, viewing the conditions of confine-
5 ment at the MCC as a whole, do you have an opinion as to
6 whether the environment at the MCC is sufficient to permit
7 inmates to meet their primary and secondary needs in such
8 a way as to preserve their mental well being without
9 intolerable levels of stress?

10 MR. MUSHLIN: I object to that. He went
11 through all the elements.

12 THE COURT: I don't think these general
13 observations will be useful.

14 Sustained.

15 Q Dr. Bowen, did you observe any aspect of the
16 conditions of confinement at the MCC which, in your view,
17 were pathogenic?

18 A No, I did not with the possible exception --
19 I did not observe but I could infer -- that long duration
20 stays in the dormitory area for certain individuals
21 I would consider to very possibly be pathogenic.

22 MR. SCHAFFER: Thank you. I have no further
23 questions.

24 MR. MUSHLIN: On the confinement stays Dr.
25 Bowen referred to I have three or four questions that I

1 rsl4

2 have Mr. Carlson putting people in Sea Labs.

3 Q Isn't it true you have never written about
4 jails or done any research on jails or prisons?

5 A That is true.

6 Q You used the word pathogenic effects of environ-
7 ment. Could you describe what you mean by that term?

8 A Yes. The word pathogenic means some agent
9 to produce pathology and, in this case, I mean an environ-
10 ment as the agent to produce the pathology.

11 Q Are You talking about severe anxiety or
12 psychosis or what when you talk about that effect?

13 A Yes, it can be severe; it ranges from physical
14 damage, very highly noisy environment will damage the ear,
15 et cetera, to mental an emotional symptoms.

16 Q Did you mean long-term damage when you used
17 the term pathogenic effects?

18 A I think it is most usefully used. That is
19 the pathology continues beyond the point where the stress
20 is applied.

21 Q When you talked about primary needs I noticed
22 one of the needs was a psychological need for security
23 of an individual?

24 A Yes.

25 Q If I were to ask you to assume that persons

dwa5

Q What's your position?

A Senior correction officer.

Q How long have you held that position at the
MCC?

A A year and a half.

Q In the course of performing your duties as
senior correctional officer have you had occasion to
conduct strip searches in the shakedown room after visit-
ing hours?

A Number of times, right.

Q On those occasions have you ever found
contraban?d

A Many a time, right.

Q Can you recall on approximately how many
occasions you found drugs as a result of the strip
search?

A Oh, about six times.

Q Can you describe any of those instances?

A Well, one is -- call the name out?

Q No, you don't need to specify the name of
the inmate; just describe when it occurred and what
happened.

A Well, one of my visits I caught drug coming
through in a pile of cellophane through one of the inmates

1 dwa6

2 toef his shoe, and twice I have caught it coming
3 through under the middle of a shoe like inside of the
4 sneaker, the whole inside pulled out and stuck up under
5 the bottom.

6 Q On any other occasions have you discovered
7 drugs?

8 A Yes. They were bringing it in like in
9 plastic envelope-type and just close it right in your
10 jacket pocket like this, stuck down inside.

11 Q Have you had occasion to find contraband
12 other than drugs?

13 A Coins.

14 Q On approximately how many occasions have you
15 found money?

16 A A number of times.

17 Q Any other kind of contraband besides money
18 or drugs?

19 A No.

20 MR. SCHAPFER: Thank you, Mr. Lattimore.

21 No further questions.

22 CROSS EXAMINATION

23 BY MR. YOUNG:

24 Q Mr. Lattimore, I'm Mike Young. I'm repre-
25 senting the inmate petitioners in the case.

dwa7

A Yes.

Q Mr. Lattimore, whenever you conducted strip searches have you always conducted them with only one person in that airlock area at a time?

A One person at a time.

Q You have never had more than one person in there?

A No.

Q Have you ever found drugs or any other type of contraband secreted in the anal area?

A I didn't hear that word.

Q In the anal area, when the person bends over to spread his cheeks?

A No.

Q Have you ever found drugs or any other type of contraband secreted around the genital area?

A No, not on his body that way.

MR. YOUNG: No questions, your Honor.

MR. SCHAFFER: I have nothing further.

THE COURT: All right. Thank you, Mr.

Lattimore.

(Witness excused.)

1
2 Q Approximately how many times a week does
3 each unit get sheduled to go to the roof recreation
4 area?

5 A Seven times a week.

6 Q On every day?

7 A Every day. They go once a day.

8 Q Who takes the inmates to the roof recreation-
9 al area? How is that responsibility handled?

10 A It is actually divided between -- amongst
11 myself, my recreational officer and unit staff.

12 Q Approximately how many times a week for
13 each unit do you and your recreational assistant take
14 inmates to the roof and approximately how many times
15 a week does the inmate staff take them up, just roughly?

16 A Roughly between the recreational officer
17 and myself it is 30-some-odd hours that we take them
18 up, and the balance is divided between the units.

19 Q Well, taking any particular unit of the
20 seven times that they go up to the roof per week,
21 approximately how many times do you take them up and
22 how many times does the unit staff take them up?

23 A The unit staff, they take them up approxi-
24 mately three times a week. Okay. That's the
25 average. And I take them up nine and my officer,

dwa20

Q How do you determine on each of those occasions whether the -- whether any inmates actually go to the roof. In other words, since you are not there personally how do you get information or feedback?

A Whoever escorts them to the roof must, if it is not my officer or myself, must call the recreation department, all right, they all have our numbers, state how many people are on the roof, what time they arrived, what time they are coming off. If they do not go, this pertains to unit staff, why? All right.

They also have a form which the escorting person is supposed to fill out the date, the time they went and how many. I have not had any problems with that except with unit staff.

Q So you do have to rely in a certain extent on what you are told by the people in terms of that. It's not based on your personal observations, is that correct?

A That's correct.

Q By the way, Miss David, how long has it been the policy at MCC to take people to the roof seven days a week?

A Okay. That policy did not start until, I think it was, June in '76. It did not start until

rs2

Haines - direct

DIRECT EXAMINATION

BY MR. SCHAFER:

Q Mr. Haines subsequent to your testimony and at the direction of the Court, did you undertake some further studies of length of stay of inmates at the MCC?

A I did.

Q Would you describe what you did?

A We selected all the inmates who were present on August 13, 1976 who were also present prior to and during August 2, 1975.

Then we followed their records out until they were discharged.

Q How many such individuals did you find?

A Seven.

Q Was this in addition to the individuals who were present on August 2, 1975 who had not been discharged but were still present at the MCC?

A Yes, there was, one.

Q Taking that information and based upon the discharge date of the seven who had been discharged subsequent to August 13, 1976, did you then recompute the data previously contained in Respondents' Exhibit TT and UU?

A Yes, I did.

1 dwa

2 which are stated therein are preserved.

3 THE COURT: They are preserved. I don't
4 know if I will rule on all of them unless you remind
5 me in your brief that one or another of them is very
6 important, as many of the objections we lawyers make
7 are not. And if one is important I'll think about
8 it.

9 MR. SCHAFFER: Thank you. We will do
10 that, your Honor.

11 (Petitioners' Exhibit 167 was received in
12 evidence.)

13 MR. CORSI: Mr. Young, is that with or
14 without the exhibits?

15 MR. MUSHLIN: Your Honor, I think the exhi-
16 bits were the resume of Mr. Conway, which we will
17 provide.

18 THE COURT: Why don't you mark it 167A.

19 MR. YOUNG: Next we would ask that the in-
20 mate locator lists be marked as petitioners' exhibit
21 in light of Marshall Haimes' testimony today, where we
22 are going to have to review those documents and kept
23 the record open in terms of presenting our rebuttal
24 to his claim of an average length of stay.

25 If I can explain, we had expected him to do

25
Use Form 475
(Rev. 4-22-71)

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

A 1728

FD-475 (Rev. 4-22-71)

(Rev. May, 1964)

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INMATE REQUEST TO STAFF MEMBER

Date January 27, 1977

TO: WARREN TAYLOR

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

Court order of 7/17/76 issued by Hon. Lawrence Pierce authorizing Edward Jacobs, Esq. to visit jointly Ms. Braunig (Gardner) and myself on file here at the institution.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

Request statement from you why Mr. Butler contravened this order on this date by refusing Mr. Jacobs joint visit in accordance with this order.

NAME: MR. EARL GARDNER

No.: 26035

Work assignment: Idle (involuntary)

Living Quarters: 11E

Grade standing: (1st, 2nd, 3rd):

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date

Officer

FD-475 (Rev. 4-22-71)

P-50

4615
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

A 1729

5
FPI-MI-9-24-75 SUM-4417

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INMATE REQUEST TO STAFF MEMBER

Date 1/25/77

TO: A. Rivera - Unit Manager

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

Ms. Braunig has been in transit on a 500 mile trip for four days. She, therefore, is not in receipt of certain urgent legal communications sent from me to her. At least two of these matters require immediate attention. It should be noted that it is at this institution's instance that Ms. Braunig was transferred BROUGHT HERE (under brutal and shocking conditions) and I believe that it is up to the institution not to further interfere in our mutual legal concerns.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

Request immediate interview with Ms. Braunig

NAME: MICHAEL GARINER No.: 26035

Work assignment: Idle (involuntary) Living Quarters: 11S

Grade standing: (1st, 2nd, 3rd):

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date

A 1730

PLT
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

6 *[Signature]*
FPI-MI-9 24-75-50M-4417

MEMORANDUM

TO: A. RIVERA - Unit Manager

FROM: GARDNER/ #26035

SUBJECT: VISITATION: MICHAEL GARDNER - SUSAN BRAUNIG (GARDNER)

DATE: JANUARY 25, 1977

As you know, Ms. Braunig arrived at the U.C.C. on this date. Ms. Braunig is my co-defendant and we have been corresponding regularly since she has been at Alderson. Obviously, there is no question that we are entitled to communicate freely since we have been authorized to do so and our entitlement falls within the context of Bureau policy regarding communication between co-defendants.

We are, of course, both witnesses in the forthcoming trial of Wolfish v. U.S., but our need to communicate freely is even more urgent. Judge Pierce recently denied appointment of counsel to Ms. Braunig for purposes of instituting various post-conviction motions. I have been asked by Ms. Braunig to act as counsel in preparing for her at least four different motions relative to her conviction and her parole status.

Because of this I am requesting that we be permitted to visit at least three times per week for without these visitation rights Ms. Braunig's present legal work would come to a standstill.

You may recall that at an earlier date Warden Taylor himself authorized visitation between Ms. Braunig and myself. This authorization was cancelled in a presumably ex parte order of Mr. Johnson.

I hope that this present request can be handled satisfactorily by way of memorandum and that it will not be necessary to secure an order from Judge Frankel in this regard. I believe that my request is reasonable and can only assume that the court would find it so.

A 1731

USA 33a-475
(ED. 4-23-71)

PLTF

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

8

#1

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INMATE REQUEST TO STAFF MEMBER

FPI M-9 24 75 50M 447

Date 2-7-77

TO: A. RIVERA UNIT MGR
(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

IN ACCORDANCE WITH DEAD EASY WARREN TAYLOR I
HEREBY REQUEST ~~THE~~ ~~AAAA~~ VISIT WITH SUGAR
BROWN GARDNER AS SOON AS PRACTICAL. THIS
VISIT HAS A LEGAL PURPOSE. I ALSO
WOULD LIKE A PHONE CALL WHILE THE
VISIT IS BEING ARRANGED.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

THAT ABOVE BE GRANTED —

NAME: MICHAEL GARDNER

No.: 26035

Work assignment: IDIE (INVOLUNTARY)

Living Quarters: 115 LK1

Grade standing: (1st, 2nd, 3rd):

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date 2-1-77

See letter being going regarding your request

Joe Johnson As (P)

Officer

UNITED STATES GOVERNMENT

A 1732

DEPARTMENT OF JUSTICE

Memorandum

TO : All Concerned

DATE: Dec. 2, 1975

FROM : J.P. Johnson, Associate Warden (Programs)

SUBJECT: Inter-Unit Visiting

Re: Co-Defendants
Relatives
Spouses
Friends

There will be no provisions made for allowing co-defendants, relatives, or friends to visit one another when located on different floors or units. We would require legal direction before considering such visits.

Co-defendants on separate visits or floors may communicate through written correspondence. In critical situations, after checking with appropriate U.S. Attorneys, Unit Managers may approve co-defendants to communicate by inside telephone. These calls must be supervised, however, limited in frequency and length, and should not significantly interfere with other staff obligations and duties.

Spouses committed to the M.C.C. who wish visiting privileges should submit requests to their respective Unit Managers. Unit teams should determine that the marriage is a legitimate, enduring relationship with a reasonable period of co-habitation. Visiting may then be approved twice weekly, with supervision arranged by Unit Managers.

cc: Mr. Tabor
Mr. Hardesten
Unit Managers
Inmate Bulletin Board
C.C.S.
Correctional Supervisors

UNITED STATES GOVERNMENT

Memorandum

A 1733

MCC-NY, NY
150 Park Row 10007

TO : Michael Gardner
Reg. No. 26035-145

DATE: February 2, 1977

FROM : Larry F. Taylor
Warden

SUBJECT: Special Visiting Privileges
Letter Dated 1/27/77

Thank you for your January 27th note concerning special visiting privileges with Susan Braunig.

Visits of this nature are authorized by the respective unit managers. I've asked them to look into the nature of your request to determine whether or not such a visit is warranted. You may want to discuss this matter further with Abe Rivera, your unit manager.

cc: S. Harmison, Unit 5
A. Rivera, Unit 11
J.R. Johnson, AW(P)

LFT:sae



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

A 1734

9

FPI 10-1-24-75 501-4417

Form DJ-150
(4-7-69)

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : All Concerned

DATE: Dec. 3, 1975

FROM : *W. Johnson*
W. Johnson, Associate Warden (Programs)

SUBJECT: Inter-Unit Visiting

Re: Co-Defendants
Relatives
Spouses
Friends

There will be no provisions made for allowing co-defendants, relatives, or friends to visit one another when located on different floors or units. We would require legal direction before considering such visits.

Co-defendants on separate visits or floors may communicate through written correspondence. In critical situations, after checking with appropriate U.C. Attorneys, Unit Managers may approve co-defendants to communicate by inside telephone. These calls must be supervised, however, limited in frequency and length, and should not significantly interfere with other staff obligations and duties.

Spouses committed to the M.C.C. who wish visiting privileges should submit requests to their respective Unit Managers. Unit teams should determine that the marriage is a legitimate, enduring relationship with a reasonable period of co-habitation. Visiting may then be approved twice weekly, with supervision arranged by Unit Managers.

cc: Mr. Taylor
Mr. Verdeyn
Unit Managers
Inmate Bulletin Boards
C.C.S.
Correctional Supervisors

A 1735

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

FPI-MI-00000-24-75-SOM-4417

TO: Mr. Al Butler

[illegible]

DATE: 07-24-77 23,197

1. Mother said to child that she was going to "bring in" 1977. Please re-
line that "bring in" is wider in her definition and was under one recent
cancer surgery. Child has no previous experience with a "bring in" and she
is of middle childhood age.

While working in the office of Winston prior to admission it was discovered that he had possessed contraband, to wit, a small quantity of Bureau funds.

Figure 1. The effect of the concentration of the *Agrobacterium* strain on the transformation efficiency of *Agrobacterium* strain.

- 1) For a time, - even when I was very afraid to tell my mother that I was a Jew and her mother.
- 2) For it is the mother's task to give her children without feeling, then is not a Jew. He was really born, but she considered a Jewish child.

for example, "I'm not a doctor, but I think I can help you."

It is to be stated that it would be a good institution, were it the property of the Government, and that the Government had no objection to the same being made a part of the Government. It is to be stated that it would be a good institution, were it the property of the Government, and that the Government had no objection to the same being made a part of the Government.

14. I have not had in mind of the nature of; clearly witnessed mother's infraction, and her evident anxiety as to the fact that chopped liver was contraband with the police; and on her victim's provisions is adequate reparation as that she be restored to a victim's list entitled.

71.002

A 1736

Let
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

P. 12

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INMATE REQUEST TO STAFF MEMBER

Date *February 6, 1977*

TO: *W. Adams, Warden*

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

I am writing to you regarding a problem I have with the medical staff. I have been in the hospital for a long time and I am having a hard time getting the medical staff to take care of me. I have been in the hospital for a long time and I am having a hard time getting the medical staff to take care of me. I have been in the hospital for a long time and I am having a hard time getting the medical staff to take care of me.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

I am requesting that the medical staff be held responsible for the care of the inmates. I am requesting that the medical staff be held responsible for the care of the inmates. I am requesting that the medical staff be held responsible for the care of the inmates.

NAME: *W. Adams*

Name (Print Name)

Work assignment:

Warden

Living Quarters:

Grade standing (1st, 2nd, 3rd):

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date

Office

A 1737

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

[illegible]

**UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INMATE REQUEST TO STAFF MEMBER**

Date February 9, 1977

TO: Legion, District 10

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

Your letter of 4/17/78 asking for my assistance with Mr. Brandis in the case of our son, Steven, is received. Mr. Brandis, however, informs me that he has no such authority. The letter is in fact, more in a line of courtesy. I must see Mr. Brandis in person to get out a statement with her relative to a personal civil action involving her husband and me, out of the circumstances involved in her trial. I am in communication with Mr. Brandis and will call on him in the near future.

(Use other side of page if more space is needed)

(error)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

That there, with an excellent view, was the Harvard Hall - JMWMA. If your
note of Sept had been accompanied by another document, I could communicate
a copy of the new edition.

NAME: ALBERT J. BROWN

No. 17-295

Work assignment: *Be the first to see the movie!*

Living Quarters: 1 -

Grade standing: (1st, 2nd, 3rd) :

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date _____

A 1738

CIRCUMSTANCES HEREIN INVOLVED. We are still being denied phone privileges and mail privileges as well. We are therefore being denied equal protection under the law.

Adm. Form No. 70
(Rev. May, 1963)

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INMATE REQUEST TO STAFF MEMBER

Date February 1, 1977

TO: WARDEN TAYLOR

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

On Wednesday, January 26, 1977, I requested that my case manager, Ms. Amy, bring certain affidavits to the 5th floor to have them sworn to and signed by my co-defendant, Mr. Braunig. I was told that Ms. Amy did not have time to take care of the matter on that particular day. It was further explained to me that I have mail privileges with Mr. Braunig. Since it would seem that mailing it to her would get these urgent documents into her hands as quickly as by any other method I placed them into an envelope, addressed it to her, put my return address on it, clearly marked it co-defendant and placed it in the P.M.B. mail box on Wednesday, January 26. As of Monday, January 31, 1977, Mr. Braunig advised her attorneys that she still had not received these affidavits and hence an important court date had to be delayed. I have not received a response to my previous requests to you but hope I have made myself clear that it is of the utmost urgency that I be allowed to visit with Mr. Braunig immediately and that

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

denial visitation rights will cause her a substantial deprivation of her rights.

ACTION REQUESTED

This matter can only be remedied by immediate visiting privileges between Ms. Braunig and myself. This is not my first request and I have yet to receive an answer. I would appreciate your written decision as soon as possible.

NAME: MICHAEL GARDNER

No.: 26035

Work assignment: Idle (involuntary)

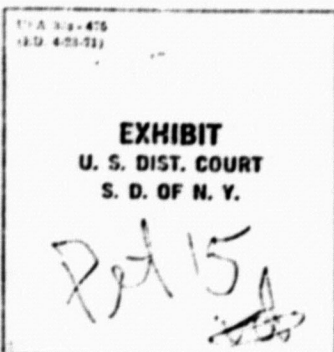
Living Quarters: 118

Grade standing: (1st, 2nd, 3rd) :

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date



February 17, 1977

MEMORANDUM

TO: Warden Taylor

FROM: Inmate Michael Gardner 26035-145

I write to clarify several points made in your memorandum of 2/11/77, which I received on 2/16/77. While I appreciate your taking the time to write, your memorandum mistakes and confuses several facts.

While I admit that your files are correct and that I am legally married to someone else, I must state that my relationship to Susan transcends marriage in the legal sense. I will, however, pass on arguing the personal aspects; while I do take exception to your decision that our personal relationship does not warrant our being able to communicate.

Your memo again grants joint legal visits, "when it appears warranted." To date, such visits have been granted only with Mr. Young. While I understand and appreciate the institution's involvement in the "Wolfish" suit, how can it be presumed that other counsel visits are not warranted? Attorneys have tried to convince your staff of the need for such visits without success. I will be happy to supply you with affidavits from these attorneys regarding this matter and their conversations with your staff. Hence the word "warranted" becomes crucial. I can only say that these visits were urgent, and directly related to various legal problems confronting both Susan and myself. I would be most anxious to accept your invitation to discuss this matter with you.

To correct one misstatement; the visit Mr. Rivera had approved was clearly a visit with a definite, clear cut, carefully defined legal purpose. Your classifying this visit as "social" is totally in error. Mr. Rivera did perform his function of evaluating my request. Mr. Johnson denied this visit, exercising his supervisory authority, but without any understanding of the situation.

Like every counter rehabilitative aspect of jail life, we will soon be forced to become "sneaks", to be "jail-wise" in order to communicate whatever about matters that are vital to our life, liberty, and happiness. I pray that you do not force us to stoop to that level; the thought saddens me. I know that you can easily understand my point. We are asking correctly for permission, we are willing to explain the necessity (even though this is a waiver of privilege) in order to attempt to avoid stooping to the level around us.

I would appreciate a further clarification, in light of the above.

THE LAW LIBRARY

A 1741

The Law Library is maintained for the benefit of all residents of the M.C.C. and requires the cooperation and assistance of the entire population.

The rules and regulations of the Law Library are necessary to allow each inmate the opportunity for maximum use of the available books and material.

The Law Library cannot engage in research, preparation of legal papers or act in the capacity of a lawyer.

Only Federal law and Federal books are available.

The Law Library can only fill your request when a complete citation is given- ie: (300 Federal Supplement.)

No law book will be issued without a duly executed inmate request and duly signed receipt form.

No more than 3 books will be issued at any one time.

Books must be returned no later than 3 days after issuance.

Volumes of the following books are presently available on request:

- A. 1) U.S. Code Annotated-Volumes 7,10,16,18,21,26,28,29,42,46
- 2) U.S. Code Annotated Amendments (1-14)
- 3) U.S. Code Annotated Constitution-Article 1 Section 1, to Article 1 Section 8
- B. Federal Supplement- Volume 200 thru 406
- C. Blacks Dictionary
- D. Decisions of the U.S. Supreme Court- 1963-1964 term-thru-1974-1975 term.
- E. Modern Federal Practice Digest-Volume 16 thru 18, 26 and 26A, 30, 42
- F. Federal Reporter-2nd series-Volume 300 thru 527
- G. Supreme Court Reporter Volume 1 thru 96(2)
- H. Federal Rules Decisions Volume 62
- I. Federal Digest 1-74

It is a criminal violation of Federal law to mutilate, destroy or withhold Federal property.

Do not write in the books or remove any pages. you are responsible for the return of all books which you borrow.

LAW LIBRARY

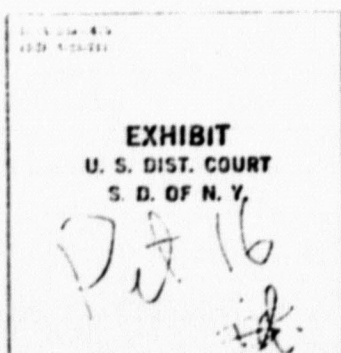


EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Rel 17

THE COURT:

RE: *Rel 17*

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THE COURT:

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Pet
EXHIBIT

**U. S. DIST. COURT
S. D. OF N. Y.**

A 1743

Pet 18
[Signature]
FPI MI-9 24-75-50W-4417

MEMORANDUM

TO: BOB HARCIS

[Signature]
FROM: MICHAEL GARDNER - 115

DATE: JANUARY 20, 1977

SUBJECT: CONDITION OF LAW BOOKS

Please be advised that I received the following volumes today, lacking pocket parts:

1. M.F.P.D., Vol. 39
2. M.F.P.D., Vol. 42

Since these editions are 10 years old (or more) they are, for all intents and purposes, useless without the current pocket parts. Your prompt attention in rectifying this matter will be appreciated.

c.c. Michael Young, Esq.
A. Rivera - Unit Manager
Warden Taylor

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

A 1744

Adm. Form No. 10
(Rev. May, 1955)

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INMATE REQUEST TO STAFF MEMBER

Date: January 11, 1977

TO: Robert Harris - Director, Correction Department
(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

There is inadequate reading material on 11-South. What reading material
there is consists of cheap, old paperback editions of relatively
worthless items which cannot be categorized as literature.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly
what you think should be done, and how.)

1- Please provide me with a list of A-B books in the institutional library.

2- Please provide me with a statement as to how I can request delivery

of items which I request from this list to 11-S.

NAME: MICHAEL MARSH

No.: 26025-115

Work assignment: 11-S (Involuntarily)

Living Quarters: 11-S

Grade standing: (1st, 2nd, 3rd):

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.
You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your
problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date

Officer

A 1745

USA 33a-475
(ED. 4-23-71)

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Pt 24
[Signature]

FPI-MI-9-24-75-SOM-4417

BOX A
ALDERSON, WEST VIRGINIA 24910

OFFICIAL BUSINESS

115

K
TO Mr. Michael Gardner
Co-Defendant % M.C.C.
150 Park Row
New York, New York
10007

A1746

Dec 8 3:30
K. Amy

Amos (Amos) #00241-183

A 1747

Box A.
Alderson, West Virginia
24910

Thursday, December 2, 1976

My Dearest Beloved,

I Love your very nifty Self. I got another "mash" note from you today from the Saturday before you went to court re the habeus corpus writ. First of all, before I get involved in answering your letter or telling you what news I have to say - I must say something to your very self; and that is:

This part of my "journey"(or experience, as it were) has been the least difficult of all. It will be the last part of the journey and will be over very very soon. I am in amazingly good spirits, considering our circumstances, but I am not going to question the way I feel, I am just going to be thankful that I feel this way. I spend most of my time at the chapel or in the library or at meals in the dining room. I am in the "cottage" very little of the day. Reverend Sol Codillo has been extremely kind to me and has kept me occupied at the chapel almost daily - because he understands how I feel about being here. Also Sister Sandra (one of the nuns) has gotten me involved with everything from helping plan the liturgy, to the choir, to all kinds of projects at the church. I think I have already told you that I am going to sing the Bach-Bouvard "Ave Marie" for one of the pre-christmas services. Last night Rev. Sol asked me to sing it for the Candlelight service here on Christmas Eve, and said he would like me to sing the Schubert one at another occasion. Sandra asked me tonight if I would want to "sing outside" with the catholic choir over the holidays, as I did with the Protestant choir on Thanksgiving. Tonight I also organized an ornament-making semi-party for the choir members of both choirs. I told them how we make ornaments out of ribbon, and candy, ect. and we decided it would be fun to do here. I have found, My Dearest, that if I keep busy at these simple tasks, the situation is easier to live with. So, on Dec 16th we will listen to carols and munch cookies and coffee and make ornaments. Michael, My Love - you are right - this time next year we will be settled at home and I cannot even begin to put into words what I see planned for us, except to say that it will be better and more beautiful and happier than ever before - this I promise you.

Tonight Sandra (the nun) asked me if you were a good man. Of course I said yes; and then she asked me if I really deeply loved you, and I said yes. She knows you are Jewish and that we have been living together without being "legally" married - yet she said "That's all I have to know. If you say he is a good person, then he must be." You have to realize that coming from a catholic, and a nun to boot, that is quite a bit of understanding. I think it might help their recommendations to the Board if you dropped a note to either one or the other of them. Sister Sandra Peraldo or Rev. Sol Codillo.
c/o FFI Alderson, ect.

I just think that their comments might dispell some of the "stink" of Kaplan and Rakoff's comments that have to be part of my records here. If you think it is not necessary, then I'll abide by your decisions. So There! You might write a different note to each because the catholic operations and the protestant ones are handled differently. Who knows, anything could help.

Did you reach Malcolm or Peter re job offer as yet? As you well know, release plans are important in certain areas. Especially where half-way house is concerned. No, I have not received any more \$ except the \$2.55 that was forwarded from my balance at the M.C.C. Paul's Money order has not shown up at all, nor was it posted at the M.C.C. or it would have been forwarded with the rest, which I just got credit for today.

Let me see - no other "news" about this place. Now on to the legal nonsense:

Hooray! Your news about Robert Barry is fantastic!!! Now, as you have already said to me - the question becomes "What do we do with this news?".

We have so many, many ways of attacking and approaching this situation. If we only had Paul, Weiss, Rifkind or any other decent law firm - this nightmare will be over for us both.

What's happening re Cg? Anything new on Netzel that we could use?

I got a letter from Connie yesterday, I won't put it all down because she is talking about her dogs, ect but I will quote some parts that might interest your very self. Have you written her to thank her as yet? If not, please do. Thank you, My Michael. , " I still haven't talked to Michael. Last time he called, and I wasn't home again. This is the busiest time of the year for me. Everyone wants their poodles looking pretty for the holidays. Ha Ha. Well, dear Susan, I'm breaking down and going up to visit Gerry Mon. and Tues. I'm going to fly up (Forest is in Maine now, Michael.) and we're going to shop for another car for me (among other things)!! I talked to him Weds night as I wanted to know the reason he was denied a furlough for either of the holidays. Barbara (his sister) got a letter from Carolyn's doctor stating the facts about the cancer and that she was to have surgery. Barbara went to Western Union and sent the exact words in the letter and signed the doctor's name. Then she mailed the letter. Both of these went to a guy in Mass. who approves Gerry's furloughs. Because she signed the doctor's name, he put an attempted escape on Gerry's record which will prevent him from getting any furloughs. I know she didn't realize the consequences in what she did, but like I told Gerry she wanted to run the whole show, and she did a real good job. Now they are going to hire a lawyer to try to have this removed from his record. If you can, try to call me on Sat. night 7-9:30 (Michael, this letter is dated 11/26/76 so she must mean this weekend. I will try to call her). Xmas day I will be at my mother's all day (717-733-3531) but if I remember correctly no calls can be made for a few days before and after Xmas. I only had the 1 letter from Michael, I hope he is writing to you. Those letters mean so much. I know, I always looked forward to mail call....."

As if I had to worry about either of us writing to each other!!!! Michael we are very very lucky. We are very close, especially now and especially over the holidays. There is a reason for all this happening to us and we will survive it. WE ARE MEANT TO SURVIVE THIS!!!!!!!!!!!!

A 1749

December 2, 1976

page three

Where is all that work you promised me? I keep looking for it, My Snuggle Bunny. We must inundate them with paperwork.

Yes - please let Michael Young know I will be ready and willing to testify for him AFTER I meet the Board here. I have told that the Board will meet in the early part of January - probably the second week. I will let you know exactly when, as soon as I can.

The case manager is being very nice. He leaves me alone and has not denied any of my requests. I have no incident reports and will not have any. It really should be obvious to all that the SDNY is our real "disciplinary problem" We have no problems outside of the SDNY. By the way - I had miscalculated my furlough eligibility. It will be Feb 13th, not Jan 13th - it has to be after 90 days residence here at Alderson. They are very liberal with their furlough policy here.

I Love You, My Michael. It is late and I have a policy statement to type tonight and not much time left to type it. So, for the moment I will say goodnight to my Darling Husband.

Please read Psalm 40. I was praying for guidance for us tonight and was all alone in the chapel and turned to my right and saw a bible on one of the pews and opened it to that Psalm. It is very very very appropo. Please read it.

Also enclosed is Dr. Peale's Thanksgiving article from Guidepost magazine. The Marshall's wife who came to Alderson from N.Y. with Rosa and her husband and I saw it in their hotel room and gave it to me the next day. She said, I don't know why I am giving you this, I never do this sort of thing, but something told me you might like to read it.

Also enclosed is the program from last Sunday. It's unzanny - during the service I found myself asking, "How can I convince Michael that none of this is going to touch me or change me?" and one of the gals handed me the program and said that this was the order for the day's worship and she was sorry she forgot to give it to me. Nothing happens to us arbitrarily, My Love.

I Love You SO MUCH!!!!!! You cannot begin to imagine. I sleep with my arms holding your tummy all night. So There! Ha! Nyaaaah! (I like this typewriter - it has an exclamation mark already built in - it must have been made for people who write like I do - with exclamations all over their letters!!!!!!)



A new book, *Daily Guideposts, 1977*, by Executive Editor Fred Bauer is being offered exclusively to our subscribers this month. It features 365 inspirational thoughts, one for every day of the year. Following is an excerpt from the book.

The Tarnished Flute

"There is that maketh himself rich, yet hath nothing; there is that maketh himself poor, yet hath great riches." (Proverbs 13:7)

A parable is told about a reed flute that was passed down from the time of Moses. Though crudely made, the instrument produced exquisitely beautiful music that blessed worshipers for generations. Then the priests decided that such an heirloom should be decorated with fine gold to reflect the majesty of its music. But after the gold was applied, the flute produced only harsh, metallic notes. It had been ruined.

There are many valuable things gold cannot enhance. It cannot buy friends or love or good health. And it cannot bring one closer to the kingdom of God. It has, however, been a barrier between many a person and salvation. The rich young ruler (Luke 18:18-25) is one memorable example and there are many others.

If you don't know the Lord, all the gold in the world will not fill the void. If you do, you are rich beyond all worldly measure. *Let no possession come between me and Thee, Lord.*

You may order *Daily Guideposts, 1977* by using the form found between pages 8-9 or by writing Guideposts, Carmel, N.Y. 10512. Send no money now. We will bill you \$4.97 plus a small postage and handling charge later.

A Thanksgiving Message

THE BLESSING WE TRY TO AVOID



Thanksgiving Day is a time for counting blessings, so what I have to propose may seem a bit startling. This year, when you're adding up the things you're thankful for, try adding a new item. Try being thankful for trouble.

Nobody likes trouble, certainly. Nobody claims to enjoy it. But the longer I live the more convinced I become that this disagreeable element in life often brings out marvelous qualities in people: courage, persistence, toughness, endurance and finally—in many cases—a serenity of mind and steadfastness of character that are wonderful to behold.

The great historian Arnold Toynbee believed that challenge and response—that is, trouble and reaction to trouble—are the forces that drive a nation or a civilization upward. This idea won't seem far-fetched to anyone who knows his or her Bible. Just read the Old Testament. Time after time, when they were victorious and prosperous, God's children turned away from Him. Time after time He brought them back by plunging them into adversity so severe that the softness and decadence were burned away and the lean, hard, tough qualities were restored. In our own time we saw the people of Britain, battered and alone after Dunkirk, fight their way through to ultimate victory. Winston Churchill called it their finest hour. It was.

But it's the strengthening impact of trouble on individuals that fascinates me, because so often I've seen good come out of it. Sometimes the impact drives people to their knees—and what better source of

From Norman Vincent Peale

strength is there than the Power that runs the universe? That contact with God often enables the troubled person to see the solution hidden in the problem that confronts him.

I knew a remarkable woman once who dealt with trouble in just that way. Out in South Dakota a good many years ago a couple named Ted and Dorothy Hustead put all their savings into a drugstore in a small farming community on the edge of the Badlands. They couldn't have chosen a worse time. A plague of grasshoppers ate up the crops. Dust storms killed off what the grasshoppers left. Farmers had no money to spend in drugstores. Tourists who streamed by in dust-caked cars saw no reason to stop.

Disaster loomed, but Dorothy Hustead didn't panic. She thought about the problem and she prayed about it. What, she asked herself, could make those hot, dust-parched travelers stop in her store? What did they want more than anything else? And suddenly, in those days before air-conditioned cars and portable coolers, the answer was plain. Water. That's what they wanted. A long, cold drink of ice water that would cost them nothing.

So Dorothy suggested to her husband that he go down all the roads entering the little town of Wall and put up signs promising free ice water. Drugstores had been offering ice water for decades, but nobody had ever advertised it before—at least not with such enthusiasm. The parched tourists began to stop. And spend.

Today there must be a hundred clerks serving eight to ten thousand people a

day in that drugstore, and the signs have gone all over the world. I've seen one myself in London's Piccadilly Circus, giving the mileage to Wall, South Dakota, and I'm told there's one near the Taj Mahal. All because a brave and determined couple reacted to trouble with ingenuity and persistence and prayer.

Adversity can bring people closer together, too. I once knew a young couple who were handsome, clever, somewhat spoiled and increasingly disenchanted with each other—in fact, they were well on their way to the divorce court. Some business reverses wiped them out so completely that they moved to a little



Ted Hustead and his two daughters in front of Wall Drug as it appeared in the 1940s (top). Today the drugstore is a favorite tourist stop.

house in the country and tried to make a living by growing and selling berries and vegetables at a roadside stand.

"I won't pretend we were happy," the husband told me years afterward, "but we kept going somehow. Then one day when we were picking berries on opposite sides of a row of bushes we came to a place where there was a gap in the leaves. I remember Marilyn had a blue bandanna tied around her hair. Her face was hot and sunburned and perspiring, and I knew she was dead tired. But she looked at me through the bushes and she smiled. And in that precise moment I knew that the barriers between us were gone, that because we were struggling together we would survive together, that our feelings for each other still ran deep, that sooner or later everything would be all right. It was a life-changing gift, handed to me by adversity. I never forgot it."

Trouble. All of us meet it in our lifetimes. All of us complain about it, too, when perhaps we should be learning how to take the great surge of energy, the fighting response, the marvelous adrenalin magic that pours into the bloodstream of any threatened organism —and use those

qualities not only to meet that particular challenge, but also to live more intense, more dynamic, more exciting lives.

You can almost always spot the people who have learned to put trouble to work for them. Not long ago in a book about our pioneer heritage I read a true story about such a person, a story that made a deep impression on me.

It was about an old farmer in Vermont who had reached his one hundredth birthday. Friends and neighbors came to wish him well. It was a glorious summer day; outside the old farmhouse a meadow of tall grass stirred in the wind.

After he had received all the congratulations, the old farmer called for his scythe. Lovingly he stroked the gleaming blade with a whetstone. Then he walked out into the meadow and began to mow, slowly at first, then with increasing vigor while everyone watched, amazed. On he went with a rhythm born of countless hours of toil, the bright blade hissing through the sweet-smelling stalks. When he came to the end of the field, with the grass lying in perfect windrows behind him, he stopped, wiped his forehead, and smiled. "There's some kind of a record for you," he said.

He meant a record for mowing a field at his age, no doubt, but it was much more than that. It was the record of a century of achievement, of self-discipline, of triumph over adversity. It was years of hardship and austerity and trouble that added up to decades of dignity and pride. It was all there in that lasting image of an old man with a scythe, scorning the years, defying the grim reaper himself.

Tough problems facing you? If so, thank God for them on this Thanksgiving Day. They may test and torment you. They may try your very soul. But they may also call forth from the depths of your being a greatness you didn't know you had. ◀

MEASURING TIME

Time, sooner or later, is the one commodity we all run short of.

Wrote John Burroughs:

"I still find each day too short for
all the thoughts I want to think
all the walks I want to take
all the books I want to read
all the friends I want to see."

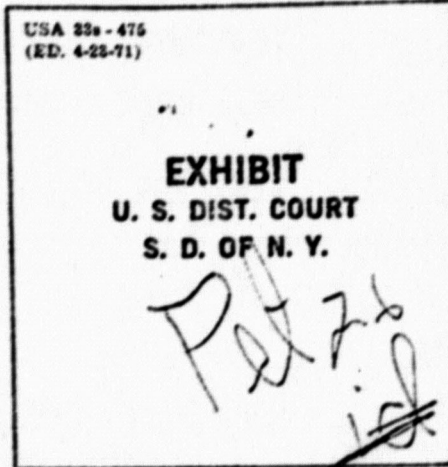
Our time is too short . . .

for pettiness
for angry words
for wounded feelings
for crushed souls.

Perhaps the measure of a life is not its length
... but its love.

Bill Morgan Jr.
Salisbury, Maryland

A 1754



FPI-MI-9-24-75-SOM-4417

BOX A
ALDERSON, WEST VIRGINIA 24910

OFFICIAL BUSINESS

115



Co - TO Mr. Michael Gardner
76 M.C.C.
150 Park Row
New York, New York
10007

Defendant

79 ///

A 1755

Henry
Dec 4, 1976

My Dearest Beloved Michael -

You are wonderful - & I love you, I Love
you & I Love You.

I'm listening to Harry Chapin on the radio in here.
I like him - he is really a folk singer. Have you
ever heard him, My Love? He had - Broadway
show of some sort last year. I like the sound.
Some day, please please take me to a folk music
concert. Or any other concert - we've never been to
one together & the time we went to see "Cyano"
together - you fell asleep!! talk, talk.

Well - this morning I went to Chapin rehearsal at
104th & wound up having a "hard - to hear"
with Reverend Sol Codillo. We talked about you, &
we talked about Marble Church & Temple Emanuel.
Michael - he asked me the name of the temple on
8th & Park. Do you know what it is? We
discussed the homosexuality here & the stock market
& politics. He was aware that Kissinger was a
Rockefeller discoverer & I found out that Julie Nixon
Eisenhower had been married by Dr. Peale at
Marble Church in 1969. Did you know that?

also Rev. Sol had been one of the psychiatric ministers of the therapeutic foundation at Maudsley. He is a psychiatrist as well as a minister — Very interesting. We discussed the guilt conscience of the Southern Baptists & the Catholic Church, etc. I really enjoyed speaking to him. You would like him. I think I told you that he is Phillipino (misspelled - I know). He feels that my going through this experience will help me understand you in a way that no one who has not lived through all this could. He said that the problem most people who are - say, alcoholics - have is that their families cannot deal with their sobriety. He said that the problem most people who have been incarcerated have is that their families either pity them, censor them or have some odd conception that you have changed in some way because of it. He said he understands ~~sub~~ how we could have ^{even} become closer by living through this mess together — although it is rare that people survive with their relationships intact. I expressed some of your ideas re the fact that we are not a part of any criminal sub-culture. He said he agrees with you about that.

The Unit Counselor just told me they don't know for certain really when the Bd is meeting in January - that it could even be the 1st week. Now - I told Uncle Jimmy it would probably be the 2nd week. Please find out his schedule, Mr. Love.

I spent the day playing the piano & tonight an outside choir is coming to sing. Most of these criminals are going "to the sea" instead so, it'll really just be our choir members who will go to listen.

I miss you, My Knuckle-Bug. It was 27° here today. That's warmer than usual. Guess what! - you know how stinky my legs are from the knee down - Well I am getting "muscles" on my calves because of walking up & down hill in flat shoes & I think it looks good. I have gained 5 lbs & now I am my exact weight (my usual) & I don't intend to gain any more.

How are your snuffles, My Love? Aah!

Poor Michael - Aah!

Have you spoken with Peter V... recently?

It just seemed to me - I haven't watched T.V. at all since I've been here. I've done a lot of reading & writing in stuff.

I miss you, My Michael. The concert starts in 1/2 hr, so - I'll continue this when I get back. No mail from my Penquian today. I'm sorry you haven't been getting my mail frequently enough.

I'm reading an interesting Jewish novel called "The Last of the Just" by Andre Schwarz-Bart. It's really incredible & some of it is beautifully touching & a great deal is humorous & a lot of it is political. ^{are you certain you are not a "Lamed-Vovnik" yourself?}
"The Last of the Just" - is the haunting monument to the courage & defiance of the family of Levy, to whom God has granted one Just Man in each generation. The terrifying legacy is traced over eight centuries from a medieval pogrom to the agonies of Auschwitz suppressed by the young German Jew, Ernie Levy, the Last of the Just. You would identify with it - so would Mike Sidney. I Love You! I Love Us!!

Please don't ever, ever change!!!

* What happened with Fannie + Lucy Hunt?
 Her letter has to go to Mr. Howe immediately
before he is prejudiced by her erroneous report of
 what is the status of my appeals brief? Do
 you know what's going on it ~~as yet~~? When is Fannie
 sending it to the printer? Have you seen your last
 brief? Wouldn't it be incredible if an idiot like
 Fannie could get a last hearing? It is just ironic
 enough to happen.

Well - the "concert" was pretty good.
 But - Brother was those "Lutheran Baptists" yell
 Hallelujah + Amen + "Jesus loves"!!! Ah well,
 "to each his own".

I Love You, My Darling. I adore you.
 I miss you very, very, very much.
 But soon, My Darling - soon we shall be
 together again. I am so excited about our
 future together!!! I can hardly wait!!!

Tomorrow night is a full moon + I am
 going to stay in the chapel all day + tide.

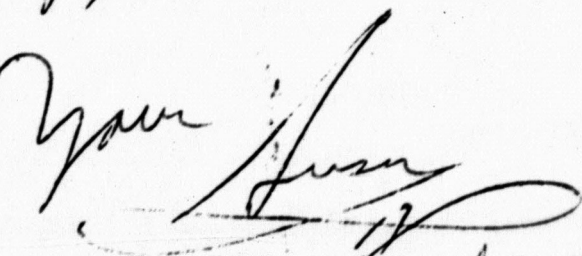
Five people are crazy enough without a hell
man ~~dog~~ driving them crazier. No, no -
not at all - Ha!

My Sweet, Dearest, Dear - I Love
you so very much! I sleep with my
arms + my heart all around you - all night,
every night.

Please know that I only think
of our future, with Joy + Hope and
of our Past, with Pride + of our Present
with Faith.

I am forever your Loving.
(+ at times not-so-lovable) wife

Now, + always,

I Love you + Your 

P.S. - We had bananas for breakfast - so I'd
better say - your Loving Mother! H/A! to thee!

A-1761



Dec 8 4:30
K. Amy



A 1762

USA 33a-475
(ED. 4-23-71)

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Plt n7
[Signature]

FPI-MI-9-24-75-SOM-4417

BOX A
ALDERSON, WEST VIRGINIA 24910

OFFICIAL BUSINESS

119
TO *Mr. Michael Gardner*
c/o M.C.C.

Co-Defendant *150 Park Row*
New York, New York
10007

Friday 9th
Dec 3rd '66

My Dearest Beloved Inmate - Penguin,

I just got out of the lab so that I can write fast
& fluffy when I write to you very night, huh! I sat
the legal papers at 11PM today & I pulled a burn - I
can burn & had them zexed before I finished reading
your instructions re: the changes. Ah - well; nothing ever
really changes in life - I'm still your scatter-
brained monkey. Oh - before I forget, Rosa sends her
love to you & said to me, "Tell Michael I'm
keeping an eye on his monkey for him".

Tell Uncle Jimmy that I am very proud of him for
the note he turned in re your custody. (Actually -
it's you I am really proud of because I know you
did the writing of it.) although - I am always proud
of you - & I always believe in you as a man &
as a Persistent Penguin.

Jayce (from me) is coming to visit Rosa here
the week before Christmas. You might call her - Anna
Henge knows Jayce's number. Let me see - what other
news - Oh - yes. Most of the time the institution
discourages a new resident meeting the 3d on the first
available date. 1.) because of the paperwork & time element -
but mostly because of 2) lack of familiarity with the

resident + the staff. ^{-3- (They are not trying to answer me!)} I am very familiar to all - all spoke to the Warden today. We had an orientation class in which the class went into the Warden's office + he attempted to speak. Of course these idiotic animals kept interrupting him with stupid cry-baby questions + jokes. So he got very little out that he was trying to say, you would get along famously with him, my love - he's easier to speak with than my T. My two points today were:

1.) We are not here to be punished by the institution. He feels being incarcerated is punishment enough - that there is no need to compound the injury to personal dignity - if at all possible.

2.) There is no "rehabilitation" in jail. That contrary to public opinion, Court's opinions + word games of the system - jail is counter rehabilitative. He offers programs so that if anyone wants to get some limited job training a G.E.D. to be con - but jail is not a home. It is a bad place.

He then took me aside afterward & said that he had some work for me to do & wanted I please help him. (I didn't realize he wanted to remember who I was). At least his impression of me is a good one & I will try to get his recommendation & recommendation & for skills, etc. for the Bd. The work I do for him is considered "Voluntary". (no \$ & no "good days"). However - I am the only one of my group who hasn't been sent to the kitchen as yet. I know I will eventually have to go but I am working in the library full-time now. I completely re-organized it - according to topic rather than the "Sewy decimal system".

So much for this nonsense here -
now - On to the "Good
Bye" & "No there! No there!"

I Love you!!!

Your letter of Monday has made me
very very happy!!! We're not
 out of the woods yet but I can see
 daylight & it's getting better by the day.

We have learned what we were sent
 here to learn & it's time for us to
 go back to work in the world.

I Love your vision of the
lies!!! I agree, I agree, I agree!!!
 Michael we are going to be so busy - so happy
 so prominent & so good for each other & for the
 world we live in. & God has mercy for us to
 be together in His plan for us.

We have been tried, tested, & come
 through with flying colors.

I wish I could put into words
 what I see.

the office just counted us & turned out the lights.
 in case someone in her office) -

Re: Legal Dept -

what are you going to do when Pines
 with Ben & finds out that the Movement
 is in the wrong? I'd love to have a fly
 in the courtroom wall.

What if we can prove that the Hunt
 completely lied in their reply brief? What is
 the proper procedure for getting another hearing
 in the appeal, based on the fact the Hunt
 lied?

James - that we should give them
 money with motions. Can't you just get a
 \$100 loan from Bob & have WHT file
 them? Or even Connie would run loan
 for the motions for us. Can you think of
 any more we can file?

Oh - I Love You.

(The officer just counted us & turned out the lights.
I am now downstairs in her office) -

Re: Legal threat -

What are you going to do when Peace
meets Bing & finds out that the Government
was in the wrong? I'd like to be a fly
on the courtroom wall.

+ What if we can prove that the Govt
completely lied in their reply brief? What is
the proper procedure for getting another hearing
in the appeal, based on the fact the Govt
lied?

Clarice - that we should drive them
crazy with motions. Can't you just get a
\$100 loan from Bob & have WHT file
them? Oh even Connie would run down
to the courthouse for us. Can you think of
any more we can file?

Oh - I Love You.

I Love You Nighty Evening & I miss it too!!
 (Watch out for the full moon this weekend
 Dec 5th, is a full moon - I will turn into
 a werewolf during the full moon - so don't let
 me bite you! Ha! Repeat!) Wasn't I I got
 you home - Ha!

Yes - go to the Press - Yes
 appeal 'til the 'court comes'
 at then some.

We are both coming home
 very soon. Now, the question becomes
 where will home be?

Oh - Yes I have written you every
 day except some weekends I only wrote
 you 6 times a week. I ~~know~~ for certain
 the mail is leaving London - so it must
 be later intercepting everything (Hello Astro!!)
 at the nice plump you.

What has happened with the Tom Meyers
investigator? Was he found guilty or what
decision has been made re Meyers. And
yes - I would so believe that the
don't lie. Ratsoof (p. 100 me, -
later) especially. He is going to be so
sorry he got involved with harassing you.

Now - what exactly happened
re your custody status? & How did
you know the govt was willing to
expunge your record and behave rationally
about it all? I sent Sidney & Martha &
Gloria & everybody letters when you were
in Sandstone. (of which you should have a
copy) in which I explained why you
should be in Allenwood. Especially because
you have less than a year to serve
before parole. Please look them over
again & really work on getting into
Allenwood, please.

yes My Love - Nawi & Nawi always
 "miss the point". That's what I find
 extremely frustrating. By the way - it's
 too late to get a letter to Nawi before
 he writes the appeal - (Due Dec 13th) -
 so I'm going to call him Monday
 Dec 6th & / or Tuesday Dec 7th, Please,
 please follow through with him. I
 don't want him to bite my brief until
 you have read it. I know you are already
 laboring on it with ~~him~~ him - But I know
 him - he's stubborn & "single-minded"
 & is difficult to "get through" to.

It's 11:50, I have to
 go back to the dorm. I didn't get
 to all the beautiful, mushy things I
 wanted (& always want) to say
 to my most Beloved Perquin.

I Love You!!!

No letters have been returned to me.

You, handwriting looks very good & very much like "normal". I apologize for mine. I am fine - I'm just thinking faster than my pen can keep up with.

You're My Michael; &

Don't you forget it. Give my love to your Mommy, Hug the kids for me & stick out your tongue at WHF for me!!!

Oh - I Love You

more & more & more & more & more.

Now, forever & always.

Yeeha!!! Your Loving, Loving Wife
(+ corporate Body & member)

I have never felt mushier towards my
Beautiful, Wonderful Penguin.

I Love You — I adore you,
I miss you & I want to give
you 10,000 snuggles & hugs & kisses.

Good Michael, Good Michael — for
having, sharing & working. That's my
Good Michael.

I Love You. I
like you & I always think warm
Happy. I want to wake up to
you every morning & fall asleep with
you every night. I want us to
"grow old" together as you always
say.

A 1774

Susan Loves Her

Michael —

now,

forever,

& always

Your Susan Margaret Gardner

Ha! to there! Youh!!n that!!

A 1775

B
0941-183

Dec 8
3:30
K. Henry

A 1776

USA 339-476
(ED. 4-23-71)

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

PETITIONER'S

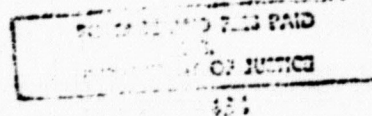
29 ~~10~~

FPI-MI-9-24-75-SOM-4417

BOX A

ALDERSON, WEST VIRGINIA 24910

OFFICIAL BUSINESS



TO Mr. Michael Gardner
for M.C.C.

Co-
Defendant
79

150 Park Row
New York, New York
10007

A 1777

Opened in presence of
inmate

Date: 12/27

Time: 3:55

Signature
(Employee)

13 Shahid

A 1773

A 1789

[illegible]

A 1781

12/24/76
(New Moon April)

My Beloved—

These Prayers + notes are for
you from Sister Rose —
she says "Shalom" +
she knows how deeply we love
each other ~

I Love You
Very Much Self —
So Here !!!

A 1782

Al

Love

Yours

Yours

now, forever, & always

Love.

A 1783

USA 33a-476
(ED. 4-23-71)

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

PETITIONERS'

30

LS

FPI-MI-9-24-75-SOM-4417

BOX A
ALDERSON, WEST VIRGINIA 24910

OFFICIAL BUSINESS

Co-Defendant

115
TO Mr. Michael Gardner

Co M.C.C.

150 Park Row

New York, New York

10007

A 1784



Sur
C.

Opened in presence of
innate

Date: *12/27* *3:55*

Signature
(Employee)

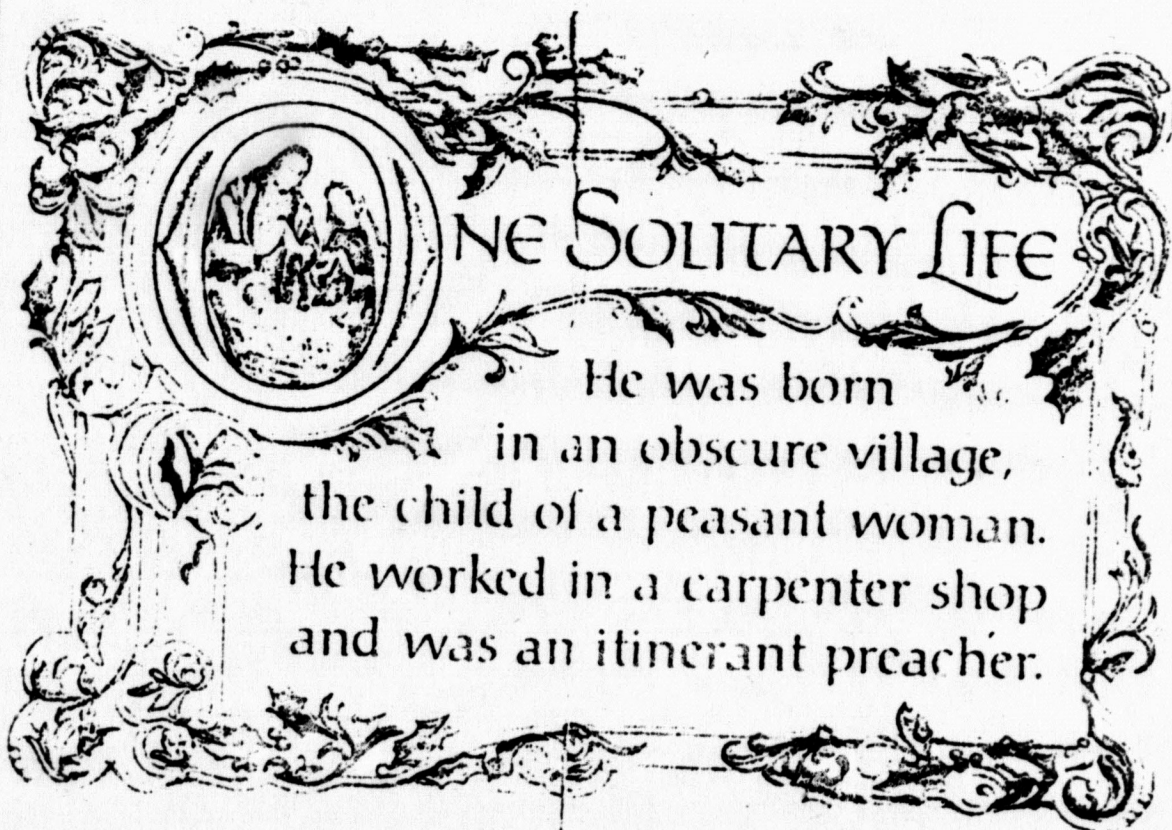
[Handwritten signature]



A 1785

300BX 89-4C

Hallmark



He was born
in an obscure village,
the child of a peasant woman.
He worked in a carpenter shop
and was an itinerant preacher.

A 1786

• He never wrote a book. He never held an office.
He did none of the things one usually associates
with greatness. Nineteen centuries have come
and gone, and today He is the central figure
of the human race. All of the armies that ever
marched, all the navies that ever sailed,
all the kings that ever reigned, put together,
have not affected the life of man on this earth
as much as that ONE SOLITARY LIFE.

To wish you all the joys
of Christmas
and happiness for the new year.

*Best wishes,
Marguerite*

*Merry Christmas
Jude*

Bobbie

*Merry Christmas
June*

A 1787

Dec 22 '76
(Wednesday mite)

My Dearest Lizzie - Piquin -

I Love You very, very ^{much} ~~much~~

(the librarian & woman I wrote you about earlier)
did my 'work report' today. I'm still
listed as voluntary & as such I don't really
get paid (yes, I remember your letter to me)

I have entered "73½ hrs" for her (library)

which is amazing since I held down 2
other jobs, plus spent most of my time

in the chapel & I've only been here since

Nov 13th. Also - I have a cake decorating

class & had amputation class for 3 weeks,

plus the testing. Once a Gardner, always

a Gardner. Her only (she thinks) negative

comment was a ? next to "satisfactory" re

"is helpful to others". She said I have

created the impression with her & with the

rest of the institution that I am a bit

"aloof". So - never fear, my Love -

Once a Gardner, always a Gardner !!!

Now, I have to get Martley to write a work report for the Board.

I have just gotten 3 whole letters from your very self! I Love You!!!

The library staff is getting Pizza for lunch tomorrow as a Xmas present & I am enclosing a card they sent me, because it's meaning is so beautiful that I want to share it with you.

Also - the cottage is having an Xmas party (roast beef & macaroni & cheese) + ^{outside} ~~man~~ chain is coming to sing for us at the chapel.

Friday night there will be a candlelight service from 10 - 11:30 & I will sing "Ave Marie" for you, my love.

My prayers & love are with you constantly, my Beloved.

A 1789

- 3 -

I have already sent xmas cards to:
you (most important one)

Harvard Tensink (asking him to write Lol)

Peter Vogelism

Hannie + Lois

Martin (Linn + Michael Hardner - of course as with
all the others)

Connie + Denise —

I was only given 6 cards & I have no
money at all with which to buy any
cards from Commissary. I agree that at
least Uncle Sidney, M + H, & Ravi
should get them — but unless I
make "homemade" ones, it's impossible.
I will make a card for Uncle Sidney —
it's out of the question for M + H.

Did you give my letter to your
sister? Did you read it to her?
Don't want to write Ravi. I just
+ Linn + M. —

I'll get around to it eventually.
I'm glad Connie wrote you & stuff!
He's good people inside, my love.
I agree about Maine. We have already discussed it.
We'll have Xmas, Chanukkah (you
misspelled it! H'a!) eat with the kids
& your mommy not you, my love.

I've figured out your guidelines
& even if they don't give you
credit for your Vendo & early 93
time - You only are "accountable"
for 9 more months - which means
90 days & then a half-way house!
I really wanted you home by your
Birthday! It's not impossible.
I certainly will be home by
your Birthday, my love !!!

Hand chain practice tonight & didn't
 get to the ad Bly for the tying - hence
 this is, my own scribbling, my Love!!!
 I don't have Eddie's P.O. Box #
 in Stockton, N.J. - get it from
 WHF please for me. I think you,
 my Michael, Would you believe
 I work every day with 2 Judi's
 & they both spell it Judi!!! One
 is Judi Parks (the ed up) & the
 other is Judi Boone (the Warden's
 son) ah, well - c'est la vie!!!

Don't waste your time talking to
 the idiot inmates, my Love - Write!!
finish your books - at least
the outlines!!! & slosh with
 salt water every night -
 shave, shower & change
 your linen!!!

I've just about decided to become a writer also, my Love. That is certainly something I could do while traveling with you & in the first 3-4 years of our children's lives. Just give me a Selectric typewriter & a piano !!! and a good taping system. I have decided on reels, not cassettes.

That way you can also dictate your 4 AM notes. Although I think we need a dictaphone for you, My Love !!!

I can see us now - promoting our books - you giving speeches & I, singing - both of us on the talk shows, ect.

Please get busy & write . . .

I've made a list of the areas I think I could write about (a medium)

P.S. - I dreamt a mystery story 2 mtes ago that I think is quite good.

- 1.) Children's Books - open field
fantasy, allegory, etc.
- 2.) animal stories - Archibald (our mouse ?) the story of Ralph, etc.
& fables.
- 3.) plays - not enough decent plays - especially with good parts written for women. & I've now stored up incredible characters too!

4.) Novels - ⁻⁸⁻ How about one re ~~the~~
the story of actresses or even a
humorous one about sex & the people we
know - but set out as fiction,
not fact. or the adventures of

5.) J.W. c III ???

religious stories, poems or prayers?

6.) How about a factual out of
the legal mess we wound up in?

7.) ? - what do you think.
Poetry, maybe ???

I Love You, My Michael,,

I have some immediate stories to tell you
about the gals. Gene Albert, her
love & PH are here in company.
Yam E. Kim. Story is really quite
a funny one.

How do you feel this moon
cycle? Please send me typing to do.

Yes, my love - I do want a part-
folio made. I think you should
also have one made.

I am your wife - why should
you be surprised when someone mentions
it to you? Honestly - that's another
spooby I owe you!! Bad Michael -
Bad Michael... Tsk, Tsk...

Don't worry about R's lies anymore.
 He's already tipped his hand once too
 often. ~~We~~ don't have to do anything
 but "stand & wait" for God
 to take over. He is the best
 advocate we could have. It's
 already under advisement by your
 Board of Directors & is gestating even
 now. Don't lose faith —

I promise you — He will handle
 it for us. He already has, we're
 just too close to the fight to see
 what's happening for us, My Love!!!

I Love You!!!

I'm reading "America - by Stephen Vincent Benet" — I simply must
 write the first 2 paragraphs to you,
 my love — (By the way he wrote this
 first months before his death in 1944)

America

There is a country of hope, there is a
 country of freedom. There is a country where all
 sorts of different people, drawn from every nation
 in the world, get along together under the
 same big sky. They go to any church they
 choose — Catholic, Protestant, Jewish, Mohammedan,
 Buddhist — and no man may be persecuted there
 for his religion. The men and women of
 this country elect the people they wish
 to govern them, remove those people
 by vote — not by revolution — if they

feel their representatives have done badly, speak their minds about their government and about the running of their country at all times, stay themselves and yet stay loyal to one cause, one country, and one flag.

The flag is the stars & stripes. The country is the United States of America. The cause is the cause of democracy.

It is not an earthly paradise, a Garden of Eden, or a perfect state. It does not intend to be any of those things.

It has not solved every problem of how men & women should live. It has made mistakes in its own affairs, mistakes in the affairs of the world. But it looks to the future - always - to a future of free men & women, where there shall be bread & work, security & liberty for the children of mankind.

It is a queer country, in some ways. It is young among the nations of the

void. But it's system of Government has
 endured for over a century and a half,
 flexible to changed conditions, but without
 essential change. set out & so forth.

Michael, We are the hope of the
 future & it is ~~precisely~~ you & I and
our children that can make the
 difference.

A lot of gals have written to Carter
 already & you should see the replies!!!

Not stenciled or off-set forms, but
 long, personal letters signed by him.

He can be moved & call it my
 naïveté, my love — but I understand
 what his religious tenets are & I
 really understand his background. Even

A 1800

more so for having been here in the
 "Bible" Belt (as opposed to the Goshawk
 Belt, I suppose! H'q.) seriously -
 I know what a hearten Baptist
 "Born Again Christian" behaves like &
 believes. I have enormous Hope
 + Faith in the future, my Love.

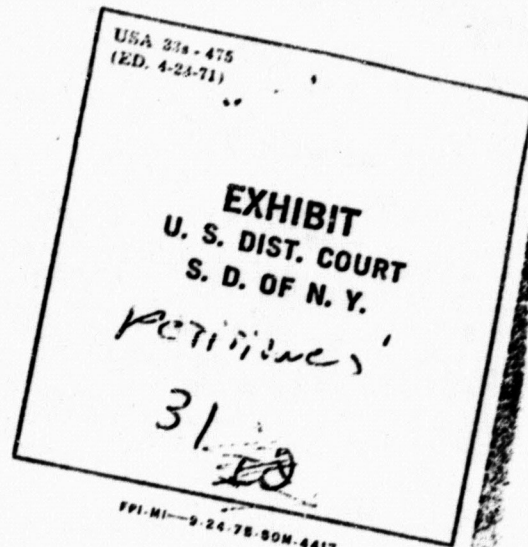
Mondak has also been contacted
 + replied very favorably. I'll tell you
 about it when I see you, my Love.

I can hardly wait to
 get on with our life -

It's in God's Hands now -

Oh - How I deeply, deeply Love
 you - now, forever + always,
 Your Loving Wife

A 1801



BOX A
ALDERSON, WEST VIRGINIA 24910

OFFICIAL BUSINESS

TO Mr. Michael Gardner (115)
c/o M.C.C.

Co-Defendant 150 Park Row
New York, New York
10007

A 1802

Opened in presence of
inspector

Date: 12/27

Time: 3:55

Signature
(Employee)

id. Mohamed

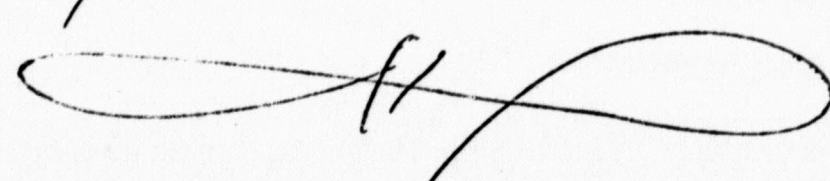
I simply want to
say:

I Love You

& I am your lover -

now, forever & always.

P.S. - I think my new life goal
will be "writing" - plays, novels,
children's stories, etc. - I'll tell you
more about it tomorrow -

Oh, how I Love
you... 

A 1804

12/21/76

Two side note.

New Moon Cycle

My Dearest Darling
Beloved Penguin —

All I have to say to you
tonite is this:

I Love You

I'm falling asleep on my bed & I
have much to tell you —

But, just for tonight —
(+ every night.)

A 1805

12/20/76

STMAS

Worship - 8:00 AM

Prayer - The Lord's Prayer

Singing - "The First Noel"

Scripture - Luke 2:1-14

Prayer - The Lord's Prayer

- Rich - 1st Reading

10:00

Father - Miguel - 1st

Mother - Mary Jo - 2nd

Daughter - Betty - 3rd

Daughter - Susan - 4th

Daughter - Mary Jo - 1st

Daughter - Betty - 2nd

Daughter - Susan - 3rd

Daughter - Mary Jo - 4th

Daughter - Mary Jo - 5th

White Christmas

by Susan - 1st

The Way We Were

The Littlest Angel

by Mary Jo - 1st

by Susan - 2nd

by Mary Jo - 3rd

by Susan - 4th

Joy To The World

O Come All Ye Faithful

Silent Night

Precious Lord

Testimony

O Holy Night

Congregation Hymns

What Child Is This

Away In A Manger

Shepherds of the Field

Rudolph

Jingle Bells

We Wish You a Merry Christmas

Benediction

(played by me)

A 1807

WHILE CHRISTMAS

It's dreaming of a White Christmas, just like the ones
 When the footsteps of silent and colden listen
 To hear sleigh bells in the snow

It's dreaming of a White Christmas with every Christmas
 May your days be merry and bright
 And may all your Christmases be white

MY SON HAS GONE AWAY

REFRAIN:

Jerusalem, Jerusalem, how could you run away?
 Jerusalem, how long, my son? I'll wait for you, I'll wait for you

VERSES:

1. My son has gone away, left me, gone away?
 But I have seen the way he went and I will bring him back.
2. Perhaps my son is weary and cold; perhaps he is far and sad
 Tonight I'll go and watch again, and wait for him to turn

JOY TO THE WORLD

Joy to the world, the Lord is come: let earth receive her King;
 Let every heart prepare Him room
 And heaven and nature sing, and heaven and nature sing,
 And heaven and heaven and nature sing

Joy to the world, the Savior reigns: let men their songs employ
 While fields and floods, rocks, hills and plains
 Repeat the sounding joy, repeat the sounding
 Repeat, repeat the sounding joy.

He rules the world with truth and grace, and makes the nations prove
 The glories of His right and wisdom
 And wonders of His love and wonders of His love,
 And wonders, wonders of His love.

A 1808

O COME ALL YE FAITHFUL

1. O come all ye faithful, joyful and triumphant,
O come ye, O come ye, to Bethlehem,
Come and behold Him born the King of Angels.

REFRAIN: O come, let us adore Him, O come, let us adore Him,
O come, let us adore Him, Christ, the Lord.

2. Sing, Choirs of Angels, sing in exultation,
Sing all ye millions of Heav'n above,
Glory to God in the highest, glory

REFRAIN: O come...

SILENT NIGHT

Silent night, holy night, all is calm, all is bright,
Round yon Virgin Mother and Child, Holy Infant so soft and mild,
Sleep in heavenly peace, sleep in heavenly peace.

Silent night, holy night, shepherds quake at the sight,
Glorious strains from heaven afar, heavenly hosts sing a jubilate,
Christ, the Savior, is born, Christ, the Savior, is born.

Silent night, holy night, Son of God, Love's pure light,
Radiant beams from Your Holy Face with the dawn of Eucharistic grace,
Jesus, Lord at Your birth! Jesus, Lord at Your birth.

A PART II

I am by night, and day, and night, and day,
 I am by night, and day, and night, and day,
 I am by night, and day, and night, and day,
 I am by night, and day, and night, and day,
 I am by night, and day, and night, and day,
 I am by night, and day, and night, and day,
 I am by night, and day, and night, and day,
 I am by night, and day, and night, and day,

CHORUS: In I am, I know, I know, I know,
 O night, O night, O night, O night,
 O night, O night, O night, O night,

Let by the light of Faith, born by looking
 With glowing hearts by His cross we stand,
 Let by the light of Faith, born by looking
 With glowing hearts by His cross we stand,
 Let by the light of Faith, born by looking
 With glowing hearts by His cross we stand,
 Let by the light of Faith, born by looking
 With glowing hearts by His cross we stand,

CHORUS: Fall on, fall on,

WHAT CHILD IS THIS?

What Child is this, who laid to rest on earth's bed,
 Whom angels greet with anthems sweet, who do we worship?
 What Child is this, who do we worship?
 What Child is this, who do we worship?
 What Child is this, who do we worship?

Why should we in such adoration adore,
 Who here lies in a manger poor,
 With a few straw for his bed,
 And a few shepherds for his food?
 What Child is this, who do we worship?
 What Child is this, who do we worship?

So bring him incense, gold, and myrror, kneel and worship,
 For King of Kings he comes to earth, to save us from sin,
 Peace bring the song on high, the Virgin Mary has birth,
 Joy for Christ is born, the Babe, the Son of Mary.

AWAY IN A MANGER

Away in a manger, no crib for a bed,
 The little Lord Jesus, lay down His sweet head,
 The stable in the sky, where down where He lay,
 The little Lord Jesus, lay down His sweet head.

The oxen are lowing, the Baby awakes,
 But little Lord Jesus, no crying He makes,
 I love Thee, Lord Jesus, I love Thee so,
 And now, by Thy side, all my life I will go.

Be it to thee, Lord Jesus, I will give to thee,
 Thy little Lord Jesus, I will give to thee,
 Thy little Lord Jesus, I will give to thee,
 Thy little Lord Jesus, I will give to thee,

A 1810

SANTA CLAUS IS COMING TO TOWN

Oh, you'd better watch out, you'd better not cry,
You'd better not pout and I'm telling you why:
Santa Claus is coming to town.

He's making a list and he's checking it twice,
He's gonna find out who's naughty, who's nice.
Santa Claus is coming to town.

He knows when you are sleeping and he knows when you wake,
He knows if you've been bad or good, so be good for goodness' sake.

Oh, you'd better watch out, you'd better not cry,
You'd better not pout and I'm telling you why:
Santa Claus is coming to town.

RUDOLPH, THE RED-NOSED REINDEER

Rudolph, the red-nosed reindeer, had a very shiny nose
And if you ever saw it, you would even say it glows.
All of the other reindeer used to shout and call him names;
They never let poor Rudolph join in any reindeer games.

Then one foggy Christmas Eve, Santa came to say:
"Rudolph, with your nose so bright, won't you guide my sleigh tonight?"
Then how the reindeer loved him and they shouted out with gleam:
"Rudolph, the red-nosed reindeer, you'll go down in history."

JINGLE BELLS

Dashing through the snow in a one-horse open sleigh
O'er the fields we go, laughing all the way.
Bells on bob-tail ring, making spirits bright,
What fun it is to ride and sing a sleighing song tonight.

CHORUS: Jingle bells, jingle bells, jingle all the way;
Oh what fun it is to ride in a one-horse open sleigh! REPEAT

A day or two ago, I thought I'd take a ride
And soon Miss Fanny Dright was seated by my side.
The horse was lean and lank, misfortune seemed its lot,
We got into drifted bank and we, we got upset.

CHORUS: Jingle bells, jingle bells, jingle all the way;

PX-32

A 1811

U. S. DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INCIDENT REPORT

1. NAME OF INSTITUTION

M.C.C.-N.Y.

PART I - INCIDENT REPORT

2. NAME OF INMATE

Michael Gardner

3. REGISTER NUMBER

2035-145

4. DATE OF INCIDENT

8/1/71

5. TIME

11:15 PM

6. PLACE OF INCIDENT

5 North

7. ASSIGNMENT

8. QUARTERS

5 North H-534

9. INCIDENT

Unauthorized use of telephone

10. CODE

701

11. DESCRIPTION OF INCIDENT

The inmate Dan telephone rang on "G" tier on the south side. I answered it and it was inmate Michael Gardner calling for Susan Beaunier. He told me that he was not to call on that phone and that he knew this. He said he was concerned about her and was calling to see if she was alright.

12. SIGNATURE OF REPORTING EMPLOYEE

J. Williams

13. NAME AND TITLE (PRINTED)

Williams Senior Officer

14. INCIDENT REPORT DELIVERED TO ABOVE INMATE BY

15. DATE INCIDENT

REPORT DELIVERED

16. TIME INCIDENT

REPORT DELIVERED

PART II - COMMITTEE ACTION

17. COMMENTS OF INMATE TO COMMITTEE REGARDING ABOVE INCIDENT

no other comments. I was 100% satisfied with the committee's decision. I was not charged with anything. I was just trying to help a friend. I was not trying to break any rules. I was just trying to help a friend.

18. IT IS THE FINDING OF THE COMMITTEE THAT: ("X" APPLICABLE BOX)

☐ YOU COMMITTED THE PROHIBITED ACT AS CHARGED

☐ YOU COMMITTED THE FOLLOWING PROHIBITED ACT:

☐ YOU DID NOT COMMIT A PROHIBITED ACT

19. COMMITTEE FINDINGS ARE BASED ON THE FOLLOWING INFORMATION

1. Inmate's statement
2. Committee's decision
3. Inmate's statement

20. COMMITTEE ACTION

1. Inmate's statement
2. Committee's decision
3. Inmate's statement

21. DATE OF ACTION

8/1/71

CHAIRMAN

MEMBER

MEMBER

#17 cont

inmate & called. Ms. Williams answered. I'm guilty of that & more guilty of losing my temper. I saw Susan several hours later when she was typing for Mr. Halmison & she said that she had had her life threatened if she told ^{anything} about the incident. I became upset and

~~the~~ got very angry at Ms. Williams & told her she was unfair.

Then I reported to Lt's office. I blew up, used derogatory language towards Mrs. Williams. He then got angry & dismissed me. We never really discussed the phone incident. I was wrong. I apologized, but I was very overreacting.

PART III - INVESTIGATION

22. DATE 1 Aug 76

23. INMATE STATEMENT AND ATTITUDE

Gardner had a very bad attitude. He called the reporting officer a prejudice bitch and began to and began to show-off and act out in the office. After being told to settle down and respond to the report he stated very sullenly that he knew who made the call but refused to admit that he made it himself.

24. OTHER FACTS ABOUT THE INCIDENT

The two party's mentioned in the report are co-defence and are known to be lovers. This type of call between units must be set up at a given time and add a great deal to the trouble we are already having over the use of the phones. When the receiving party knows that the call is to come in they will fight for the use of the phone.

Gardner, when informed of the report showed a high ~~XXXX~~ degree of disrespect toward the Unit (reporting) officer and one other member of the Unit staff.

25. INVESTIGATOR'S COMMENTS AND CONCLUSIONS

Gardner is guilty of making the call contrary to inst. regulations. He also lied about his part and responsibility in it.

Conclude also that Gardner does not display the type of response and attitude that we right ~~XXXX~~ expect from an inmate assigned to the cadry floor. Suggest that his situation be reviewed and if his situation will not allow transfer from MCC that consideration be given to moving him to more secure housing, and more direct supervision.

26. ACTION TAKEN

Because of his attitude toward me and to the reporting officer who would be in charge of his area for the rest of this evening I felt that it would be best to move Gardner off the floor. Therefore I placed him on Adm. Dent. Status on Unit 9 South. To be held there until the Unit team see him.

DREW
SIGNATURECS
LE

A 1814

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Petitioner

33

FPI 101-8 24 76 508-6417

U. S. DEPARTMENT OF JUSTICE
METROPOLITAN CORRECTIONAL CENTER
NEW YORK, NEW YORK 10007

INSTITUTION DISCIPLINE COMMITTEE REPORT

Date: 8/4/76 Time: 11:45 PM

NAME OF INMATE:

REG. NO.

The inmate has been advised of his rights before this Committee. ☒ A copy of the advisement of rights form is attached.

This hearing is held to consider the Incident Report(s) dated 8/1/76.

The following persons appeared before the Committee:

Michael Gordon, Mr. Harris - Education Dept.
W. F. [unclear] were not called because their testimony
would not make significant contribution to this case.
Summary of statements made and information presented to the Committee:

Inmate admits the charge(s): ☒ yes ☐ no

Admitted by was on the phone when Mr. Williams
talked to him. Admitted he called Mr. Williams a
"Bitch", but. Claims he was emotionally overwhelmed
at the time.

The Committee finds that:

☒ The act was committed as charged

☐ No prohibited act was committed
(If this is the findings, this report and all related reports will be destroyed.)

☐ The following act was committed:

Action Taken: *Returned to his appropriate legal status unit.*
Reassignment to work will be at the discretion of the
Unsubstantiated Prison Programs based on institutional needs.
Reason for Action Taken: *Inmate knowingly broke rules of Inst.*
and displayed very poor attitude towards the staff
officer and Corr. Dept.

☒ The inmate has been advised of the findings and orders of this Committee.

☒ The inmate has been advised of his right to appeal this action within 30 days, to the Chief Executive Officer. ☒ A copy of this report has been given to the inmate.

R. Smith, CCS
(CHAIRMAN)

Al Butler
(MEMBER)

W. H. [unclear]
(MEMBER)

(If there is insufficient room for any item, it should be continued on an attached sheet.)

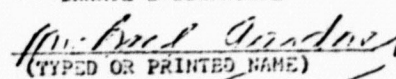
U. S. DEPARTMENT OF JUSTICE
METROPOLITAN CORRECTIONAL CENTER
NEW YORK, NEW YORK 10007

INMATE RIGHTS AT INSTITUTION DISCIPLINE COMMITTEE HEARING

As an inmate charged with a violation of institution rules or regulations referred to the Institution Discipline Committee for disposition, you have the following rights:

1. The right to have a written copy of the charge(s) against you at least 24 hours prior to appearing before the Institution Discipline Committee;
2. The right to have a full-time member of the staff who is reasonably available to represent you before the Institution Discipline Committee;
3. The right to call witnesses and present documentary evidence in your behalf, provided institutional safety would not be jeopardized;
4. The right to be present throughout the Institution Discipline Committee hearing except during committee deliberations and except where institutional safety would be jeopardized;
5. The right to be advised of the Institution Discipline Committee's decision, except where institutional safety would be jeopardized, and the committee's disposition in writing; and,
6. The right to appeal the decision of the Institution Discipline Committee by means of the Administrative Remedy procedure to the Chief Executive Officer (Warden) within 30 days of notice of the committee's decision and disposition.

I hereby acknowledge that I have been advised of the above rights afforded me at an Institution Discipline Committee hearing.


INMATE'S SIGNATURE

(TYPED OR PRINTED NAME)
210 35-145
REGISTER NUMBER
4/2/76
DATE

A 1816

U. S. DEPARTMENT OF JUSTICE
METROPOLITAN CORRECTIONAL CENTER
NEW YORK, NEW YORK

NOTICE OF INSTITUTION DISCIPLINE COMMITTEE HEARING

DATE: _____

TO: Michael G. Givens

REG. NO.: 21535-145

ALLEGED VIOLATION: Unauthorized use of telephone

DATE OF OFFENSE: 8-1-76 CODE NO.: 701

You are being referred to the Institution Discipline Committee for the above charge.

The hearing will be held on _____, at _____, at the following location _____.

You are entitled to have a full-time staff member to represent you at the hearing. Please indicate below whether you desire to have a staff representative, and if so, his or her name.

I DO X I Do Not _____ wish to have a staff representative. If so, the staff representative's name is Robert Harris.

You will also have the right to call witnesses at the hearing and to present documentary evidence in your behalf; provided, calling your witnesses will not jeopardize institutional safety. Names of witnesses you wish to call should be listed below. Briefly state what each proposed witness would be able to testify to.

Name: Mr. Coffey, can testify to interview with
Mr. Coffey

Name: Susan Brauring, can testify to original incident

Name: _____, can testify to _____

The Chairman of the Institution Discipline Committee will call those witnesses (staff or inmate) who are reasonably available, and who are determined by him to be necessary for an appreciation of the circumstances surrounding the charge. Repetitive witnesses need not be called. Unavailable witnesses may be asked to submit written statements.

If additional space is needed, use the reverse side of this page. Date, sign, and return this form to the Chairman of the Institution Discipline Committee.

Date: 8/2/76 Signature Michael Givens

BP-15-114

MGR-7

A 1817

ATTACHMENT B
20,001.1B

MIRC 4.7
(INSTITUTION)
INDIVIDUAL SEGREGATION RECORD SHEET

TEAM/CASEWORKER: W. J. M. J. J. REGULAR QUARTERS: A-504
INMATE NAME: CANNONEN REG. NO: 26035 CELL: 153921984
VIOLATION: IN-SUBORDINATE DATE: 8/1 TIME: 9:45 A
OR REASON: RE-USE CANNONEN REC'D: 9/1/11
ADMITTANCE: LT. DAVE DATE: 8/1 REL: 9/1/11
AUTHORIZED: LT. DAVE REL: 9/1/11
PERTINENT INFORMATION:

DATE	SHIFT	REALS	B	D	S	SH	EX	PA	SIGN	MEDICAL	COMMENTS-USE REVERSE	OTC SIGNATURE
8/1	MORN											
	DAY											
	EVE											
8/1	MORN											
	DAY											
	EVE											
	MORN											
	DAY											
	EVE											
	MORN											
	DAY											
	EVE											
	MORN											
	DAY											
	EVE											

BY: Pertinent Info: i.e., Epileptic; Diabetic; Suicidal; Hemo; Assaultive; etc.
Reals/SH: Shower - Yes (Y); No (N); Refused (R)
Ex: Exercise: Inter Actual time period and Inside or Outside (i.e., 9:30/10:00 IN) (2:00/2:30 OUT)
Medical: PA will sign the seg log each shift and the record sheet each time the inmate is seen by him.
Comments: i.e., Conduct; Attitude, etc. Additional comments documented on reverse side must include date, signature and title.
OTC SIGNATURE: OTC must sign all record sheets each shift. (OTC-Unit Officer)

BP-15-111
2/74

R-1

A 1813

Adm. Form No. 70
(Rev. May 1944)

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INMATE REQUEST TO STAFF MEMBER

Date January 24, 1977

TO: Unit 11-37

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

Request legal visiting privilege as with Michael Gardner (11-37-345) II South.
As previously stated, Mr. Gardner is my co-defendant in 7 Cr. 21 in which
most conviction relief is being done. Pro Se and Mr. Gardner is acting, in
effect, as my attorney. I am charged with aiding and abetting him, and he
is necessary to my defense. I take exception to the arbitrary discrimination
regarding our legal visits and again request they be reinstated. Refer to
my previously answered in the affirmative last August by Warden Taylor.
(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly
what you think should be done, and how.)

That permission be immediately written and delivered to 5th floor visiting
room officer.

NAME: Susan Brandt, Gardner

No.: 11-37-345

Work assignment: Unit Kitchen

Living Quarters: II-560

Grade standing: (1st, 2nd, 3rd): 1st

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.
You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your
problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

D USA 11-475
(ED. 423-71)

GOVERNMENT'S

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Det 12 id

Brannigan
for id
2/1/77
BB

1287

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INMATE REQUEST TO STAFF MEMBER

Date 1/26/77

TO: Unit Manager or Case Manager

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

Request legal visit with Michael Gardner (#26035-145) 11 South, in order to
discuss my appeal, bond situation and 6 civil cases we have together.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

Request that memorandum be written and delivered to the 5th floor visiting room
officer to this effect.

NAME: Susan Braunig (Gardner)

No.: #00241-183

Work assignment: none at present

Living Quarters: H-560

Grade standing: (1st, 2nd, 3rd): 1st

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date

USA 338-475
(ED. 4-23-71)

~~GOVERNMENT'S~~

EXHIBIT

U. S. DIST. COURT

S. D. OF N. Y.

Plt 63

id

*Braunig Ex 4
for id
2/1/77
CB*

P288

INMATE REQUEST TO STAFF MEMBER

A 1820

Date January 27, 1977

TO: Unit Manager

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

Request legal visit with Michael Gardner (126035-145 11a) to discuss appeal, bond situation and numerous civil cases. Judge Pierce has refused to grant court-appointed attorneys for post conviction relief (ie: Rule 35, 2255, 2241, ect) and therefore, Michael and I are representing ourselves (Pro Se) and as such are entitled to attorney-client privileges especially legal visiting and correspondence. We are still co-defendants in case 76 Cr.21. This arbitrary discrimination regarding visiting is improper and hindering our attempts to defend ourselves.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

That legal visiting privileges should be immediately granted on a regular basis.

NAME: Susan Brauning (Gardner)

No.: 100241-183

Work assignment: Unit Kitchen

Living Quarters: H-560

Grade standing: (1st, 2nd, 3rd): 1st

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date

USA 336-475
(ED. 4-23-71)

GOVERNMENT

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Ret 64

id

Brauning Ex 6
for id
2/1/77 BB

P290

A 1821

#7

FEDERAL BUREAU OF PRISONS

REQUEST FOR ADMINISTRATIVE REMEDY

INSTRUCTIONS:
TYPE OR USE BALL POINT
PEN. IF MORE SPACE IS
NEEDED, USE ATTACHMENT
SHEET IN QUADRUPLICATE.

*To: X Warden of Institution
Regional Director, Bureau of Prisons

From: Susan Brauning (Gardner)
LAST NAME, FIRST, MIDDLE INITIAL

#00241-183
REG. NO.

M.C.C.
INSTITUTION

Part A—INMATE REQUEST

- 1) The Unit Team's decision to limit me to only one visit per week, in the visiting room, with Michael Gardner (#26035-145) is totally unacceptable for the following reasons: (see attached)
- 2) Although the Unit Manager has tried to work out a solution, it has not been accepted as yet by the institution.

August 12, 1976

DATE

Susan Brauning (Gardner)
SIGNATURE OF REQUESTOR

Part B—RESPONSE

I've reviewed your situation carefully and agree that you should be allowed to meet with Mr. Gardner in connection with legal matters. Visits will not necessarily be limited to one per week but will be granted by the unit team on a more or less frequent basis. Each request will be reviewed on an individual basis and the need for such a meeting must be demonstrated in each case. Your Unit Manager has the final authority to make this decision based on its merits.

Brauning & B
per 8/17/76 BB
8/30/76

Al Butler
Al Butler, Executive Asst.

Larry F. Taylor
Larry F. Taylor, Warden

SA 338-475
ED. 4-23-71)

DEPARTMENT HEAD OR REPRESENTATIVE

WARDEN, ASSOCIATE, OR REGIONAL DIRECTOR

GOVERNMENT'S

TO THE OFFENDER AFTER COMPLETION.

EXHIBIT

U. S. DIST. COURT

S. D. OF N. Y.

Det. 65
id

August 12, 1976

A 1822

The Unit Team's decision to limit me to only one visit per week with Michael Gardner (26035 - 145) is totally unacceptable for the following reasons:

- 1) Aside from the deeply close personal relationship between Mr. Gardner and myself that has been noted by the Courts, Probation Officer and Government and has even been mentioned in pre-sentence reports, he is my co-defendant in case #76 Cr. 21, from which I was severed and am to stand trial separately on September 8, 1976 in the S.D.N.Y. before Judge Lawrence W. Pierce.
- 2) I am also named as an unindicted co-conspirator in Mr. Gardner's case #76 Cr. 277 before Judge Robert Ward, S.D.N.Y., on which he goes to trial, Monday, August 16, 1976.
- 3) I am a defense witness for Mr. Gardner (76 Cr. 277)
- 4) Mr. Gardner is my major defense witness in case #76 Cr. 21 for the following reasons:
 - A) The case involves extremely complex business transactions, of which I do not have adequate understanding to prepare my own defense.
 - B) Because my possessions and defense material from home and office have been moved by the Marshall's office and stored; and because I have no access to them while incarcerated, without Mr. Gardner, a defense is completely impossible.
 - C) Mr. Gardner has over 200 of my cancelled checks, which I need to discuss with him in order to decide which ones to put into evidence.
 - D) Mr. Gardner has 7 boxes of defense exhibits, which I need to go through with him and discuss, in order to decide which ones to put into evidence.
 - E) Mr. Gardner has 1700 pages of documents that I have to go through and discuss with him in order to decide which ones to put into evidence.
 - F) Mr. Gardner has already been to trial in this case. A transcript of that trial is not available to me or to my attorney, so pertinent information can only be gathered from Mr. Gardner. (I might add that there were over 4,000 pages of transcript from his trial)

8296

- 6) If I am not permitted to see Mr. Gardner regularly and frequently, I will have no defense documents to present.
- 5) One visit per week will only allow us 2 visits prior to trial. This is so totally inadequate, it makes a mockery of Justice, as we cannot even attempt to prepare a defense in that period of time.
- 6) The one visit per week in the visiting room, we will accept only as a "social" visit. The last time a "special one-time legal visit" was permitted, (Monday, August 2, 1976) Mr. Gardner was not brought into the visiting room until 1/2 hour before visits were terminated for the day.
- 7) I feel we are being treated prejudicially, as other "non-married" inmates are allowed visiting under normal rules for non-inmate visits. I feel that our rights under the 14th Amendment to the Constitution are being violated by this kind of arbitrary discrimination.
- 8) I was informed that my only other means of communication with Mr. Gardner was to be "supervised phone calls" in the Unit Manager's or Case Manager's office. The legal privacy I am entitled to under the 6th Amendment to the Constitution is being violated by this.
- 9) I am being held at the M.C.C. simply because I do not have the money for the outrageous bail that was set at \$50,000. Is it proper that I be denied adequate preparation for trial simply because of a lack of money? Under the Constitution, I am granted equal rights regardless of wherewithal.
- 10) If I were not being held at the M.C.C., I would have the normal and "legal" access to Mr. Gardner and the defense he can help me to prepare.
- 11) In denying me access to my major defense witness and the exhibits, documents, testimony, knowledge, ect. he has, you are denying me the right to a proper defense.
- 12) I consider the denial of these rights so outrageous as to be grounds for dismissal of the charges. The institution, in denying these rights to me, is, in effect, denying me the right to a fair trial and is placing itself in a most culpable position.

CONCLUSION

I must have access to Mr. Gardner on a daily basis where we can sit down with the thousands of pages of documents, exhibits, defense material and work, from now until my trial is finished - a period of approximately one month. I suggest one of the Unit offices that is vacant, or one of the Educational offices, or one of the rooms on the third floor. The noisy, crowded visiting room, filled with screaming children running around, is no place to prepare a criminal case. In addition, the problem of moving all the paperwork in and out, time wasted in traveling from floor to floor, the security and search procedures, make it impractical, to say the least.

cc: Judge Pierce
Judge Ward
Michael Young, Esq.
Sidney Marks, Esq.
William Ellis, Esq.
Mr. Gardner's Appellate Attorney

A 1825

Gen. Form No. 10
(Rev. May, 1955)

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS

INMATE REQUEST TO STAFF MEMBER

Date January 30, 1977

TO: Unit Manager (cc Warden Taylor)

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

Apparently, Mr. Swanson's attitude is such that it becomes necessary to go beyond the Unit Staff to receive even that which is an absolute right - the right to counsel and to prepare legal defense and post conviction relief.

I, again, request that legal visits be re-instated as per BP-9 of last August, granting them by Warden Taylor. This request is not frivolous, and is, in fact vital to my defense at this point. This arbitrary discrimination must cease and desist, and legal visits much needed, must be granted to Michael Gardner and myself.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

standing memorandum should immediately be written.

NAME: Susan Braumig (Gardner)

No.: #00241-183

Work assignment: Unit Kitchen

Living Quarters: H-560

Grade standing: (1st, 2nd, 3rd): 1st

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

File
USA 138-475
(ED. 4-23-71)

GOVERNMENT

EXHIBIT

U. S. DIST. COURT

S. D. OF N. Y.

Ret 66

id

Braumig & 9
for 2/1/77

A 1826

Adm. Form No. 70
(Rev. May, 1944)

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INMATE REQUEST TO STAFF MEMBER

Date January 27, 1977

TO: Unit Manager (cc; Larry Taylor)
(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

~~Again request legal visits with Michael Gardner, my co-defendant and with whom~~

~~I am attempting Pro Se to obtain post conviction relief in the form of Appeal,~~

~~Rule 35, and 2255 and 2241 motions; as well as numerous civil matters.~~

~~This arbitrary discrimination is depriving me of the right to counsel.~~

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

~~That standing memo should be immediately written permitting legal visits.~~

NAME: Unit Kitchen No.: 700241-183

Work assignment: Susan Braunig (Gardner) Living Quarters: H-560

Grade standing: (1st, 2nd, 3rd): 1st

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date JSA 336-475
ED. 4-23-71)

~~GOVERNMENT~~

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Ret 67 id

Braunig E 10
for id
2/1/77
EB

P300

A 1827
UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INMATE REQUEST TO STAFF MEMBER

Date January 30, 1977

TO: Larry Taylor, Warden (CC: Steve Harrison, Unit Manager)
(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

Denial of Legal Visits in General: Attorney Howard Jacobs attempted to have a
joint legal visit with Mr. Gardner & myself on Thursday afternoon, January 27th,
1977. He was given a hard time by your secretary and a "NO" by Mr. Butler, your
associate Warden. The purpose of that visit was to render advice to me regarding
my representation Pro Se by Mr. Gardner in the post conviction relief, and also
to bring us both up to date on my legal status. The enthusiasm of various attorneys
is pre-empted by the fact which is becoming obvious that I will be completely
(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

exonerated within the next few months. The FBI Agent who illegally broke into
Michaels and my home is currently under investigation for illegal break-ins. The
Institution and its Administration by prohibiting visits between Michael and myself
is hampering our ability to work and thus is tampering with Justice. On advice of (over

NAME: Susan Braurig (Gardner)

No.: #00241-183

Work assignment: Unit Kitchen

Living Quarters: H-560

Grade standing: (1st, 2nd, 3rd): 1st

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date ISA 338-475
ED. 4-23-71)

~~GOVERNMENT'S~~

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Ret 28

id

Braurig & 13
for id
2/1/77
BB

A 1828

Counsel, I am herewith informing you that you are argueably creating a civil liability for yourself in that my denial of due process may be responsible for my incarceration being for a longer period of time than necessary.

If these acts are done in concert with others, you may be guilty of aiding and abetting a criminal act. In that you are acting to obstruct Justice and impede the administration of Justice.

The presumption that Mr. Gardner and I are not co-defendants is on its face a blatant misstatement.

THE DENIAL OF A JOINT LEGAL VISIT WITH MR. JACOBS WAS ALSO IN VIOLATION OF
A COURT ORDER GRANTED BY JUDGE LAWRENCE W. PIERCE.

A 1829

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONSAdm. Form No. 70
(Rev. May, 1944)

INMATE REQUEST TO STAFF MEMBER

Date February 2, 1977

TO: Steve Harmison, Unit Manager (cc:Warden Taylor)

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

Again request legal visits with inmate Michael Gardner (#26035-145) my

Co-defendant, and also my Pro Se Attorney re post conviction relief (ie:

Rule 35, 2255, and 2241) as well as my co-witness in the class action

suit pending before Judge Frankel.

JSA 333-712
ED. 4-23-71)~~GOVERNMENT'S~~EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be
what you think should be done, and how.)

That a standing memorandum be written to this effect perm

legal visits on a regular basis.

NAME: Susan Braunig (Gardner)

No.: #00241-183

Work assignment: Unit Kitchen

Living Quarters: H-560

Grade standing: (1st, 2nd, 3rd):

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date Feb 2, 1977

In accordance with our institutional policy on co-defendants, relatives, spouses and friends (memo Dec 3, 1976) there will be no provisions made for allowing co-defendants, relatives or friends to visit one another when located on different floors or units.

Co-defendants may communicate through written correspondence. In critical situations telephone communication by inside phones may be approved by the Unit Manager for short periods under special permission for short periods.

W. H. Harmison

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

A 1830

PA 73

id

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INMATE REQUEST TO STAFF MEMBER

Date August 29, 1976

TO: Steve Harrison, Unit Manager II, III & V
(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

Let me first state that Michael Gardner and I are deeply appreciative of your handling of our legal correspondence and your facilitating our weekly visit. However, as the time of trial grows closer (exactly 2 weeks away) my need to visit with Mr. Gardner grows stronger. You already understand the complexity of the case, and I have already informed you that I need the boxes of documents that Mr. Gardner has in his possession. But more important, I need to go through and discuss the documents, exhibits, ect. in those boxes.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

Although I really need daily visits with Mr. Gardner at this point, I am requesting at least two visits per week now, instead of one. And, if possible, I need that 8 hour visit you had suggested in order to bring down the boxes of documents and go through them before trial begins.

NAME: Susan Braunig (Gardner)

No.: 00241-183

Work assignment: none at present

Living Quarters: H-561

Grade standing: (1st, 2nd, 3rd):

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date 9-3-76

Steve,
you can allow 2 visits per week for each
inmate. No 8 hour visit.

BR Harrison
AUCP

Officer

U.S. DIST. COURT S.D. OF N.Y.

~~GOVERNMENT'S~~

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Pet 74

id

A 1831

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS

INMATE REQUEST TO STAFF MEMBER

Date August 27, 1972 FILE

TO: Steve Harrison, Unit Manager II, III & V

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

I request my weekly visit with Michael Gardner, as usual, for Saturday

morning from 8:30 to 11:30. I suggest you do a standing memo to that

effect, and please send a copy of the memo to Michael Gardner, #26035-145,

11 th fl, North F-1145. Also, please note on the memo that it is

permitted for us to have pens in the visiting room. Thank you.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

Please put copy of memo in the Unit Log Book.

NAME: Susan Braunig

No.: #00241-183

Work assignment: none at present

Living Quarters: H-561

Grade standing: (1st, 2nd, 3rd):

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date Aug 28, 1972

Approved

filed
memo written

W. A. Harrison
Officer

A 1832

~~GOVERNMENT'S~~

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Pet 75 id

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS

INMATE REQUEST TO STAFF MEMBER

Date August 13, 1976 FILE

TO: Steve Harmison, Unit Manager II, III & V

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)
Michael Gardner (26035-145) 11th Floor North, and I, (00241-183) have
not had our one allotted visit for this week, due to the fact that his
attorney, Sidney Marks came to see him every day this week. We would
like to have our visit tomorrow, Saturday, August 14th, 1976 during
the 8:30 - 11:30 visiting hours. Thank you.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly
what you think should be done, and how.)

NAME: Susan Braunig (Gardner)

No.: 00241-183

Work assignment: none at present

Living Quarters: G-550

Grade standing: (1st, 2nd, 3rd):

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.
You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your
problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date 8-13-1976

Approved
Given visit -

WAT

Officer

USA 336-475
(ED. 4-23-71)

~~GOVERNMENTS~~

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Ret 76
id

A 1833

11 August 76

Operations Lieutenant

Steve Harrison, Unit Manager II, III & V

Legal Visit - Intra-Institutional

In RE: GARDNER, M. # 26035-145 Unit II North F-tier

Braunig, S. #00241 Unit V

Permission has been granted for the above mentioned inmates to have a legal visit on Unit V during regular visiting hours on the above date. This has been approved by J.R. Johnson.

CM/sec

cc: Internal Security
file

A 1834

~~GOVERNMENT'S~~

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

PA 77 id

Re: Edward G.

Steve Landman, 1011 1st Ave.
Suite 11, NYC

Re: visit

Permitting the above named for inmates Michael Barker (#66-1-210)
and James Brown (#66-1-2) to visit on Saturday October 1, 1971 and
Sunday October 2, 1971 in the visiting room on the Fifth floor during regular
visiting hours.

Inmates will be permitted to bring legal papers and news into the
visiting room.

10/1/71

cc: Lt. Col. [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible]
[illegible] [illegible]
[illegible] [illegible]

DOA 287-615
(ED. 4-23-71)

GOVERNMENT'S

EXHIBIT

U. S. DIST. COURT

S. D. OF N. Y.

PJ 78

id

A 1835

Operations - Steve Harrison, Unit Manager II, III & V

Steve Harrison, Unit Manager II, III & V

Co-Defendant Visiting

RECEIVED, Susan F. 60241-143

RECEIVED, Michael F. 60243-145 Unit 11 North F-1145

Permission has been granted for the above inmates to have a visit on Unit V on Saturday, August 25, 1976 during regular visiting hours. They are also permitted to bring into the visiting room legal materials and writing materials.

Approved:

Richard Smith, C.C.S.

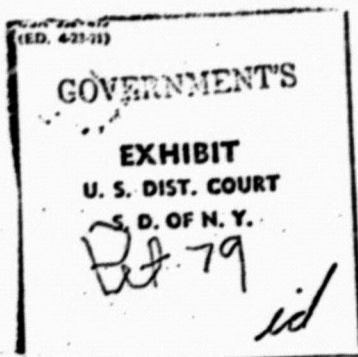
SI/sec

cc: Internal Security

Unit V Log Book

Unit V Log Book

file



A 1836

(There were no forms
available)

N.C.C.
100 Park Row
New York, N.Y.

DATE
REQUEST
TO STAFF

September 2, 1976

TO: Steve Harrison, Unit Manager II, III & V

REQUEST:

AS per Warden Taylor's answer to my BP-9 requesting legal visits with Michael Gardner, #26035-145 - which states that there is no limit on my legal visits with Michael; that they are, however, to be given at your discretion. Michael had also put in a BP-9 and got the same affirmative reply.

I am asking for a legal visit this afternoon (Thursday - 4:30 - 7:30 PM) and for Saturday morning (8:30 - 11:30) . Michael has already requested the same visit from the 11th floor, I just wanted to make certain that it was sanctioned by you.

Please write a memorandum on this to the proper people.

Also: Please help us work out the logistics regarding that "8 hour" visit you had suggested in order to facilitate the boxes of evidence being given to me by Michael.

Again, Thank You.

Disposition :

Name: Susan Braunig (Gardner)

Number: #00241-163

Work Assignment: None at present

Section: Unit V-South Room: H-561

2a

GOVERNMENT'S

EXHIBIT

**U. S. DIST. COURT
S. D. OF N. Y.**

Pat 80

id

A 1837

JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : All Concerned

FROM : Steve Harrison, Unit Manager
Units 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

SUBJECT: Legal Visits

GENERAL INDEX

DATE: September 16, 1978

Permission has been granted for two legal visits between inmates Susan Brauning (# C0241-183) on Unit V South, K-561 and Michael Jafarier (# 26035-145) on Unit XI North, during regular visiting hours on Saturday, September 18th and Sunday, September 19, 1976.

Please pick up Mr. Gardner on Unit XI North and bring him to the Fifth floor visiting room. Inmates are permitted to bring legal papers and pens into the visiting room.

5.3/5b

cc: Operations
Lt's Office
Unit XI Log Book
Internal Security
File



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

A 1833

GENERAL FILE

21 September 76

OPERATIONS DIVISION

W. Stephen Gardner
Unit Manager, 11/114, & V

LEGAL VISITS

RE: BRAUNIG, Susan	#00041-183	5 South H-558
GARDNER, Michael	#26035-145	11 North F-1146

The presiding Judge in the case of the U.S. vs. Braunig has issued an order from the bench that the above inmates are to have free access to legal visits and the use of legal material.

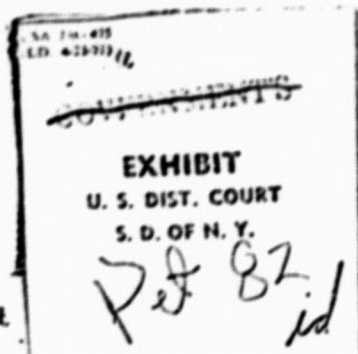
Therefore, I have granted permission for Braunig to have a legal visit during regular visiting hours for Unit V on:

Tuesday September 21, 1976
Wednesday September 22, 1976

with Gardner, who is helping her prepare legal motions and related matters.

WCH/par

cc: Operations
Unit 21 Case Manager
Unit V Log Book
It's Office
Internal Security
Excluded file
file



A 1839

10. Center of

FILE
October 1, 1975

Steve for home, built for or
Unit II, 1975

Legal visits

Permission has been granted for inmates Michael Warner (2695-245)
and James Brown (2695-155) to visit on Saturday (October 2, 1975) and
Sunday October 3, 1975 in the visiting room on the Fifth Floor during regular
visiting hours.

Inmates will be permitted to bring legal papers and books into the
visiting room.

10/2/75

cc: It's office
10th Floor Clerk
Internal Security
10th Floor
10th Floor

A 1849

EXHIBIT

U. S. DIST. COURT
S. D. OF N. Y.

Rel 83

id

LEAD OFFICER

H. Stephen Davidson
Unit Manager II, III, & V

INTRA-INSTITUTIONAL VISIT

Permission has been granted for WHAMIS, Susan #00241-165 and
GROVER, Michael #1035-165, to have a special visit on Tuesday,
September 28, 1976, to discuss and prepare legal matters, in
preparation for the visit of attorney Stanley Fisher, Esq., at
the U.S.C. on Wednesday, September 29, 1976.

Internal Security will pick up inmate GROVER from Unit XI North
and bring him to the Unit V Visiting Room.

Approved: _____
EXECUTIVE ADJ. C.C.S.

STW/pas

cc: Operations
Internal Security
Unit XI Case Manager
Unit V Log Book
Unit V Visiting Room Officer
Inmate File
File

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Rehobothers'

84

A 1841

FPI 81-8-26-76-258-5315

Rev. May, 1963

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS

INMATE REQUEST TO STAFF MEMBER

Date January 27, 1977

TO: Education and/or recreation Department

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

I request the use of the piano in the ed dept in order to practice my music,
and continue with the composition, arranging and voice work that I started at
the Alderson, F.C.I. two months ago. I have been playing the piano for well
over 15 years and I am aware of the fact that a small electric piano exists
in the Ed. Dept that is not presently being used.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly
what you think should be done, and how.)

Request that memo be written permitting me to come down to Ed. Dept and make
use of the piano at whatever hours are convenient for the Ed. Dept. Thank you.

NAME: Susan Brauning (Gardner)

No.: #00241-183

Work assignment: Unit Kitchen

Living Quarters: H-560

Grade standing: (1st, 2nd, 3rd): 1st (Minimum custody also)

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.
You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your
problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date

Officer

Brauning E 5
for id
2/1/77
BB

USA 836-476
(ED. 4-23-71)

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Re: Honors
85 ~~10~~

A 1842

FPI MI-2-26-76-200-5316

(Rev. May, 1963)

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS

INMATE REQUEST TO STAFF MEMBER

Date January 27, 1977

TO: Counselor or Case Manager

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)
The jump suits I was given in R & D are old, large and sloppy looking.

Would appreciate at least one of the "new" jump suits in the smallest size you
have left. Thank you.

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly
what you think should be done, and how.)

NAME: Susan Brauning (Gardner)

No.: #00241-183

Work assignment: Unit Kitchen

Living Quarters: H-560

Grade standing: (1st, 2nd, 3rd): 1st

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently.
You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your
problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

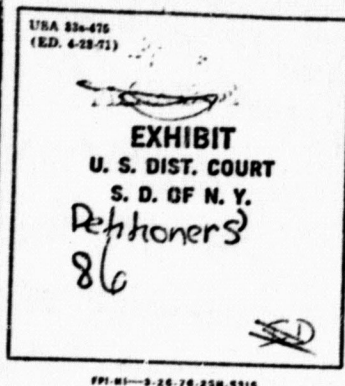
Date

Officer

FPI MI-4-2-75-4500 PADS 3593

P291

Brauning E. J.
Asst. Dir.
2/1/77 BB



A 1843

150 Park Row
New York, N.Y. 10007

Sunday,
August 8, 1976

Mr. Larry Taylor
Warden
Metropolitan Correctional Center
150 Park Row
New York, N.Y. 10007

Dear Mr. Taylor,

I am writing to you, as opposed to using a BP-9 form, because I have been unable to obtain a BP-9 form. I asked Mr. Grevious today for one, and he said, "I can't give it to you. The Unit Manager told me all BP-9's problems were to be straightened out in the Unit. Talk to the Case Manager." The first day that I went to work for Steve Harmison, I remember typing a staff memo to the effect that BP-9's were not to be given out unless logged, and all BP-9 problems were to be handled, if possible, on the Unit. Therefore, I am writing to you directly, because I have already discussed this matter in Team last week with Mr. Grevious and Ms. Harrington. I have two complaints which I feel are important enough to warrant your attention. They are as follows:

My complaint with Ms. Williams' handling of the fight of last Sunday and the aftermath of that fight: (Sunday, August 2, 1976)

- 1) Her excuse for being off the tier when the second fight broke out was because she was going to "deadlock" Carol Harris.
- 2) She did not "deadlock" Carol when she and Carol left the tier - therefore, Carol was able to come right back up the stairs and join in the fight a second time, which she did with great vigor.
- 3) She did not immediately call the Male Officers for assistance. If she had called sooner, Concetta Kennedy would not have been stabbed by Deborah Green, and Concetta would not have had her hair ripped out by the roots.
- 4) Afterward, when statements were requested, she insisted loudly, in front of everyone, calling me out to testify - even knowing I had been threatened by two girls separately, if I did testify.

5) When I attempted to ask her to step aside for a moment so that I could explain why I preferred to wait until the next day, when it would not be as obvious that I was giving a report on what occurred, she loudly and very obviously to all, refused to talk with me and again ordered me to go talk to the Lieutenant downstairs. The wall of hate around the pool table as I passed, could be felt by everyone in the room.

6) Later in the evening, she was in the Unit Secretary's office writing and typing and I walked into the office and told her why I had not wanted to go downstairs and testify immediately after the fight. She handed me an "incident report" and said, (approximate wording, I don't remember verbatim), "I knew why you wanted to talk to me. I knew you had been threatened. But the girls already say I show favoritism to Carter, and I didn't want them to say anything." I was about to say to her that I felt she was completely wrong in her handling of the situation, when another girl came into the office and Williams stopped talking and said she didn't want to be seen speaking with me.

7) She was willing to sacrifice my safety (and perhaps my very life) in order to maintain her "popularity" with the rest of the girls. That is not only being incompetent as an Officer - it is just plain uncontrollable behavior.

My complaint regarding Lieutenant Drew is as follows:

1) When I explained the fight, as I had seen it, I told him that Deborah Green had threatened Concetta Kennedy's life; and that I felt she would carry it out at a later date, especially since Deborah's husband had brutally murdered another inmate only a week prior to this.

2) His comment was as follows: First he said something to the effect that he had heard Deborah Green threaten Concetta Kennedy in his office, in his presence that night. Then he said, "Green is an Evil Little Bitch. Kennedy is an old hand, a tough ex-con, and can take care of herself. Don't get so worked up. And watch your back."

3) I suggest that, besides using terrible language in front of me, it was indiscreet and completely improper for him to say something like that about inmates to another inmate. A woman's life had been threatened - a woman I saw stabbed, not once, but several times. If that fork had been sharper, Concetta Kennedy would surely have been killed. He shrugged it off, and showed his prejudice.

Later that evening, I went into the Unit Clerk's office to do some typing for Steve Harrison, at his request. Michael Gardner saw me, and asked if I were all right. He had been quite worried about me, having seen the fight from his window and the pictures being taken afterward. I told Michael what had happened, that I was physically all right, but that I was very worried about repercussions from the girls because of Williams' attitude and handling of the situation. What he had wanted to discuss with Williams, and the reason he had wanted her to go with him to the Lieutenant's office was not because of the "telephone incident report" that occurred when he called to see if I had been hurt, but because she had endangered my life

A 1845

with her incompetence. When she refused to go down with him, and after he met Lieutenant Drew and realized Drew was not the person to discuss Williams' competency with, he became frustrated and lost his temper for a moment.

Since that time, Ms. Williams has been taking out her anger with Michael Gardner on me. In little, petty ways she has been harrasing me. For example; last night (Saturday, August 7, 1976) she carried on a discussion on my tier. It was so outrageous that I started taking notes on a few of her comments. She said, "He wanted me to go down and talk to the Lieutenant. Ain't nobody can mess up my character. I told him he could do whatever he was MAN enough to do. (Inferring that he wasn't "Man enough"). He had an attitude. Drew told me don't take no shit from him, send him to me. Honey, it don't make me no difference. Honey, nobody for to cuss me out. Nobody for to put their hands on me. (He didn't go near her) It don't make me - there ain't nobody goin' to do that to me. I am so angry that I had to call for assistance. Cowards. I hate Cowards".

On Friday Night (August 6, 1976) she saw me waving good-night to Michael Gardner for three minutes, and told me "get away from that window. You have to do as I say, and I'm tellin' you - get away from that window.", although several other girls had been waving all night and I have waved goodnight to Michael Gardner every night since I was brought to the M.C.C., and no one has ever said anything to me about it. I asked her to quote the regulation against it, so that I would know exactly why it was not allowed to me. She couldn't. She said, "I'll have Mr. Grevious tell you the regulation." I said, "Fine. I would really like to know what it is." She then raised her voice and said, "I'll have Mrs. Harrington tell you the regulation." I said, "fine." Then she screamed, "I'll call the Lieutenant and have him tell you the regulation." I said, "fine, please call him because I don't believe I've done anything wrong." She called down and asked for Lieutenant Drew, but he wasn't on duty. The next day (Saturday August 7, 1976) when she came in she started again, "Did anyone come and speak to you?". I said, "No. No one spoke to me." She then said, "I'll call the Lieutenant today, and someone will speak to you." No one ever spoke to me about it.

Last night when I was on the phone with my attorney, she saw me on the phone, gave me a dirty look and came and stood at the foot of the stairs to listen.

I suggest that her attitude is not only improper and petty, I suggest that it is potentially dangerous to me because the other girls are aware of it, and they know they can bully me and push me while she is on duty.

I have already been approached in the T.V. room late at night. A group came in and said, "Sister, you'd better get your act together because somethin's comin' down. Your teeth are gona get pushed down your throat."

If anything happens to me, I will hold Williams directly responsible, and the Institution responsible for not having delt with her attitude and her inability to be a responsible, competent Officer.

Yours very truly,

Susan Braunig Gardner
 Susan Braunig Gardner
 Unit V - South, G-550
 #00241

cc: H. Harrington,
 Case Manager

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Dehtoners'
88

A 1846

FD-302 (Rev. 5-22-64)

(Rev. May, 1958)

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS

INMATE REQUEST TO STAFF MEMBER

Date January 31, 1977

TO: Warden Taylor (CC: Steve Harrison, Unit Manager)
(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

RE: Job classification. At Alderson I was holding down the following full-time and evening jobs: Clerk to Warden Markley, Librarian and Law Librarian, all of which required typing and a knowledge of office procedures. I was also Minimum custody and due to be Community Custody on February 13th, 1977 and due to have a furlough approx February 23rd. Having typed the ALD Policy Statement re custody and having read the BP Policy statement re same, I know that downgrading my custody from Minimum to Close is not permissible. (over)
(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

That if I work (remember I am on Writ status and not required to work), that good days, and/or Meritorious pay be accorded me - as well as my right to visits with inmate Michael Gardner, my co-defendant and Pro Se Attorney for post conviction relief. And that my custody remain, as it should, at MINIMUM.

NAME: Susan Braunig (Gardner)

No.: #00241-183

Work assignment: Unit Kitchen

Living Quarters: H-560

Grade standing: (1st, 2nd, 3rd):

1st

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date

Braunig E12
for id
2/1/77
JB

Officer

1302

A 1847

In addition, people are begging for competent office workers, especially for those who can type - yet I am to be classified and assigned to Unit Sanitation?

I can only state for the record that I feel this is retaliation for my testifying in the upcoming class action - as it is arbitrary discrimination on the part of A.W. Johnson who is pulling the strings here in this and other situations.

Mr. Taylor, I know you to be a reasonable and intelligent man. Surely you can do something to end this discrimination and retaliation.

1303

A 1843

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Prisoners'

90

FPI 81-3-28-76 25N-0316

Adm. Form No. 39
(Rev. May, 1961)

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INMATE REQUEST TO STAFF MEMBER

Date February 1, 1977

TO: Steve Swanson, Unit Manager (CC:Warden Taylor)
(Name and title of officer)

SUBJECT: Briefly but briefly the problem on which you desire assistance. (Give details.)

Re: you look into why I am not receiving legal mail from inmate Michael Gardner, that has been placed into the legal mailbox clearly marked "Co-defendant, legal". I have still not received mail sent over a week ago. Also, cannot seem to get legal papers copied and/or notarized. I have also been informed that Mr. Swanson is not taking the legal mail out of the box every night, and that Officer Cook, among others, does not see fit to take the regular mail out nightly.
(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

That this situation be looked into by yourself, and remedied immediately.

NAME: Susan Braunig (Gardner)

No.: #00241-183

Work assignment: Unit Kitchen

Living Quarters: H-560

Grade standing: (1st, 2nd, 3rd):

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date 2-2-77

Ms Braunig
Legal mail is taken out of the mail box each day by 4:00pm. The mail is put in after this time does not go out until the following week pick up.
Mail sent from other places has not been forwarded to Unit 2 as of Tuesday

Officer

8341

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
Pehhoners'
91

A 1849

FPI 01-4 25-76-258-5516

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INMATE REQUEST TO STAFF MEMBER

Date February 13, 1977

TO: Warden Taylor (CC: Michael Young, Asst.)

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

On Tuesday, February 9, 1977, I mailed a motion pursuant to Rule 35 of the Federal Rules of Criminal Procedure to Judge Pierce. On Thursday A.M. February 10, 1977, I noted that it was still in the mailbox. I asked Mr. Swanson if he had

he failed to take out the legal mail, I was told in front of several witnesses,

"I don't give a shit what you care about." Mr. Swanson further makes a regular practice of opening legal mail outside the presence of the addressee. I request that arrangements be made to have someone who does care about such vital things as the legal mail handle same for this Unit. I further request that Mr. Swanson be

(Use other side of page if more space is needed)

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)
Instructed by the Administration not to use that sort of language without pro-

cation and that he be admonished for his behavior in this incident. I would have filed a 11-9 if such forms were available on this unit for such purposes. I would

appreciate an answer in writing. Enclosed are copies of relevant cop-outs previously submitted which are relevant and evidence the fact that I attempted unsuccessfully to resolve this matter on the Unit level before bringing it to you.

NAME: Susan Branch (Garner)

No. 70221-103

Work assignment: Unit Kitchen

Living Quarters: H-560

Grade standing: (1st, 2nd, 3rd): 1st

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date

Officer

1377

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

DeHhones

92

A 1859

UNITED STATES DEPARTMENT OF JUSTICE
BUREAU OF PRISONS

INMATE REQUEST TO STAFF MEMBER

Date February 9, 1977 (Feb. 10 at 12)

TO: Steve Harmison, Unit Manager

(Name and title of officer)

SUBJECT: State completely but briefly the problem on which you desire assistance. (Give details.)

LEGAL MAIL: Swanson did not take out the legal mail.....

THIS IS A CONTINUOUS MODE OF BEHAVIOR! You answered my last cop-out

re Swanson's not taking out the mail by politely saying I lied - that

Swanson took the mail out at 4 PM? every day. Steve THIS IS NOT THE

CASE. Isat up all night for two full nights finishing my Rule 35 for

Judge Pierce in time to send out on Tuesday. SWANSON DID NOT TAKE THE

LEGAL MAIL OUT!!! This cannot continue. Also Swanson is opening the

legal mail outside the prison - this is illegal!!! And you know it

ACTION REQUESTED: (State exactly how you believe your request may be handled; that is, exactly what you think should be done, and how.)

That someone other than Swanson be given the responsibility and authority to

handle the legal mail. Preferrably yourself. IMMEDIATELY. My Rule 35 is still

sitting in the mailbox 2 days after it was placed there!!!! I informed Lt.

Holly who was on duty this evening - However - no one else has the key to

the mailbox but Swanson. This CANNOT, CANNOT, CANNOT continue!!!

NAME: Susan Brauning Gardner

No. #00241-183

Work assignment: Unit Kitchen

Living Quarters: H-560

Grade standing: (1st, 2nd, 3rd): 1st

NOTE: If you follow instructions in preparing your request, it can be disposed of more promptly and intelligently. You will be interviewed, if necessary, in order to satisfactorily handle your request. Your failure to specifically state your problem may result in no action being taken.

DISPOSITION: (Do not write in this space)

Date

Officer

P387

6-23-71)

PLAINTIFF

EXHIBIT

U. S. DIST. COURT

S. D. OF N. Y.

Pekkers'

96

A 1851

FPI-MI-3-26-76-25M-5315

January 27, 1977

Pilgrims Inn/Goudge # 588

Book 29 Cervantes

Susan Braunig Gardner

NUMBER #00241-183

Unit V South Room H-560

RECORD

11-110274

A 1852

M.C.C. INMATE TELEPHONE PROGRAM SCHEDULE

Cardon, H.
C. ZILKIN'S NAME

DATE: 2-27-77

TIME	INMATE NO.	Telephone Number	PRE-PAID or COLLECT
3:00	ANDREW LEECH	52175	COLLECT
3:20	Rochester		
3:40			
4:10	P. Jones		
4:20	DEVARONA		
4:40			
5:00			
5:20	K. MARINO	01115	
5:40	FRANK ALVAREZ	04763	
6:30	H. JOHNSON	00152	
6:50	BRIGHT		
7:10	H. Durant		
7:40	PALUMBO		
7:50	R. AMIEL	8365	
8:10	RAODES	00138	
8:30	J. MAZOD		
8:50	GLENN MILLER		
9:10	P. KARAM	05420	
9:50	C. Hill		
10:10	R. CIRBITT		
10:30	ESPOSITO	6339	

USA 320-475
(ED. 2-23-71)

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
PETITIONERS
125

FPI-NI-2-20-76-250-5319

Individuals reserving time slots for Pre-Paid Calls must sign the master authorization list at 2:00 p.m. and 7:00 p.m.

VICTORY 12156

UNIT MANAGER

A 1853

METROPOLITAN CORRECTIONAL CENTER
156 PARK 20TH
NEW YORK NEW YORK

NAME _____ NUMBER _____
UNIT NO. _____ ROOM LETTER _____ ROOM NO. _____
AMOUNT OF PURCHASE _____ BALANCE AFTER SALE _____

PRICES ARE SUBJECT TO CHANGE WITHOUT PRIOR NOTICE

QUANTITY	ITEM	PRICE	QUANTITY	ITEM	PRICE
_____	PKS RAIL MAIL	.35	_____	EA TANG - GRAPEFRUIT	1.20
_____	PKS HARLEORO	.35	_____	EA TANG - ORANGE	1.20
_____	PKS WINSTON	.30	_____	SODAS	.30
_____	PKS KENTS	.30	_____	COCA COLA	
_____	PKS CANELS	.30	_____	TAR	
_____	PKS SALEM	.30	_____	FLAVOR OF THE MONTH	
_____	PKS KOOLS	.30	_____	EA MAXWELL HOUSE INST	2.30
_____	PKS APPLE TOBACCO	.45	_____	EA NESTLE CREAMER	.95
_____	PKS CHERRY TOBACCO	.45	_____	EA TASTERS CHOICE	3.45
_____	EA PIPES (CORN)	.45	_____	EA INST HT CHOCOLATE	.70
_____	PIPE CLEANER	.25	_____	EA TETLEY TEA	1.35
_____	EA PIPE FILTERS	.10	_____	EA BOX SUGAR CURES	1.25
_____	EA GARCIA VEGA REGALOS	.20	_____		
_____	EA GARCIA VEGA GALANTS	.20	_____	EA PFELL SHAMPOO	.80
_____	EA POUND CAKE	1.05	_____	EA HEAD & SHOULDERS	.80
_____	EA COFFEE CAKE	1.10	_____	EA PROTEIN 20 SET	1.05
_____	EA FIG NEWTONS	.80	_____	EA PROTEIN 21	.95
_____	EA LORNA DOONE	.65	_____	EA TANE	.80
_____	EA HAVFAIR ASSORT.	.80	_____	EA ADOPH HAIR SPRAY	1.15
_____	EA CHIP ANOV	.90	_____	EA ULTRA SHEEN	2.30
_____	EA CHEESE NIPS	.65	_____	EA DIXIE PEACH - LARGE	.80
_____	EA RITZ CRACKERS	.75	_____	EA HAIR ROLLERS-FOAM	.70
_____	EA GINGER SNAP	.80	_____	EA ROBBY PINS	.30
_____	EA POTATO CHIPS	.45	_____	EA COMB & BRUSH SETS	1.00
_____	EA PRETZELS	.50	_____	EA AFRO COMB	.55
_____	EA TORTILLA CHIP	.55	_____	EA RABBER COMB	.40
_____			_____	EA AFRO PICK	.75
_____	EA COCKTAIL NUTS	.70	_____	EA FINGER NAIL CLIP	.30
_____	EA MIXED NUTS	.90	_____	EA TOE NAIL CLIP	.75
_____	EA CASHEN NUTS	1.20	_____	EA EA TMEZZERS	.45
_____	EA CHERRY PEPPERS	.90	_____	EA SENTING KIT	.80
_____	EA SLIM JIMS	.20	_____	EA LAUVORIS	.90
_____			_____	EA TOOTHBRUSHES	.65
_____	EA RAISINS	.10	_____	EA CLOSEUP TOOTHPASTE	.80
_____	EA SKIPPY PEANUT BUTTER	.60	_____	EA POLIDENT	1.00
_____	EA APPLE PIES	.20	_____	EA POLIDENT	1.15
_____	EA CHERRY PIES	.20	_____	EA TAMPAX'S	1.80
_____			_____	A-REG B-SUPER	
_____	EA HUSKETEERS	.15	_____	EA DISPOSABLE DOUCHE	.60
_____	EA SNICKERS	.15	_____	EA EMORY BOARDS PKB	.30
_____	EA HERSHEY/ALMONDS	.15	_____	EA DENTAL FLOSS	.60
_____	EA LIFESAVERS	.15	_____	EA MOXZEMA SKIN CREAM	1.20
_____	EA PENNY CANDY(MAX-25)	.91	_____	EA ARTRA SKIN CREAM	1.40
_____	EA VICTORS COUNB DOPS	.20	_____	EA HENHEH'S BABY POWDER	.11
_____			_____	EA HENHEH'S BABY OIL	.75
_____	EA BIG PENS	.20	_____	EA OUTISANA FT POWDER	1.00
_____	EA PLASTIC PITCHER	.70.61	_____	EA JERGEN'S LOTION	1.05
_____	EA TUMBLERS	.30	_____	EA CHAP STICK	.50
_____			_____	EA AFRO SHEEN LOTION	1.00
_____			_____	EA AFRO SHEEN COMB EASY	1.00
_____			_____	EA CHEER SOAP POWDER	.75

100

A 1854

_____ EA GILLETTE TRAC 2 SET
 _____ EA GILLETTE TRAC 2 BLADES
 _____ EA MAGIC SHAVE - BLUE
 _____ EA " " RED
 _____ EA " " GOLD
 _____ EA SHAVING BRUSH
 _____ EA STYVIC STICK
 _____ EA AFTA SHAVE
 _____ EA Q TIPS
 _____ EA SHOE POLISH
 _____ A- BLACK B - BROWN

_____ EA APPLES
 _____ EA ORANGES
 _____ EA GRAPEFRUITS

_____ EA DINES
 _____ EA DINES

BATTERIES

_____ EA SIZE AA
 _____ EA SIZE C
 _____ EA SIZE D
 _____ EA SIZE 9V

_____ EA SOAP DISH
 _____ EA DIAL SOAP
 _____ EA IRISH SPRING
 _____ EA SPEED STICK
 _____ EA MUM
 _____ EA SECRET ROLL-ON

EA SHOWER SHOES

A-SHL B-MED C-LGE
 _____ EA ATHLETIC SUPPORTERS
 A-SHL B-MED C-LGE

_____ EA COMPOSITION NOTE BOOK

_____ EA RADIO

_____ EA GYM SHORTS
 A-SHL B-MED C-LGE

3.50 LIMITS ON THE FOLLOWING ITEMS

1.20
 .70 I - FRUITS - 10
 .70 II - PENNY CANDY - 25
 .85 III - CANDY - 10

1.20
 .25
 .95 YOU ARE PERMITTED TO SPEND \$15.00 PER
 .50 WEEK AND NOT TO EXCEED \$50.00 PER
 .25 MONTH...

THE FOLLOWING ITEMS ARE NOT INCLUDED IN \$50.00 MONTHLY LIMITATION...

.15 I - RADIOS
 II - MATCHES
 III - GYM SUITS
 IV - SNEAKERS

2.00
 4.00 ALL CASH ITEMS ARE POSTED ONE DAY AFTER
 YOU RECEIVE YOUR PINK RECEIPT FROM
 THE MAILROOM...

ALL NONCASH ITEMS EXCEPT POSTAL MONEY ORDERS ARE SUBJECT TO 30 DAYS CLEARANCE

.35
 .30
 .30
 .30 NAME _____

.30 NO. _____ SECTION _____

.35
 .45 ROOM NO. _____
 .85
 .75 SNEAKERS 18.00

.90
 1.65 sizes - 8½ 9 9½ 10 10½
 11 11½ 12 13

2.20 SHEATSUITS 13.20

A-SHL B-MED C-LGE

.75

26.90

2.95

1855

AMOUNT OF PURCHASE	BALANCE AFTER SALE _____
--------------------	--------------------------

PRICES ARE SUBJECT TO CHANGE WITHOUT PRIOR NOTICE

QUANTITY	ITEM	PRICE	QUANTITY	ITEM	PRICE
	PKS PALL MALL	.35		EA TANG - GRAPEFRUIT	1.20+
4	PKS MARLBORO	.35		EA TANG - ORANGE	1.20+
	PKS WINSTON	.30		SODAS	.30
	PKS KENTS	.30+		COCA COLA	
	PKS CAMELS	.30		TAB	
	PKS SALEM	.30		FLAVOR OF THE MONTH	
	PKS KOOLS	.30			
	PKS APPLE TOBACCO	.45		EA MAXWELL HOUSE INST	2.30+
	PKS CHERRY TOBACCO	.45		EA NESTLE CREAMER	.95
	EA PIPES (CORN)	.45		EA TASTERS CHOICE	3.45+
	PIPE CLEANER	.25		EA INST HT CHOCOLATE	.10
	EA PIPE FILTERS	.10		EA TETLEY TEA	1.35
	EA GARCIA VEGA REGALOS	.20		EA BOX SUGAR CUBES	1.20
	EA GARCIA VEGA GALANTS	.20			
	EA POUND CAKE	1.05		EA PFELL SHAMPOO	.80
	EA COFFEE CAKE	1.10		EA HEAD & SHOULDERS	.80
	EA FIG NEWTONS	.80		EA PROTEIN 29 SET	1.05
	EA LORNA DOONE	.65		EA PROTEIN 21	.95
	EA MAYFAIR ASSORT.	.80		EA TANE	.80
	EA CHIP AHOY	.90		EA ADORN HAIR SPRAY	1.15
	EA CHEESE NIPS	.65		EA ULTRA SHEEN	2.30
	EA RITZ CRACKERS	.75+		EA DIXIE PEACH - LARGE	.80
	EA GINGER SNAP	.80+		EA HAIR ROLLERS-FOAM	.70
	EA POTATO CHIPS	.45		EA BOBBY PINS	.30
	EA PRETZELS	.50+		EA COMB & BRUSH SETS	1.00
	EA TORTILLA CHIP	.55		EA AFRO COMB	.55
				EA BARBER COMB	.40
	EA COCKTAIL NUTS	.70		EA AFRO PICK	.75
	EA MIXED NUTS	.90+		EA FINGER NAIL CLIP	.30
	EA CASHW NUTS	1.20		EA TOE NAIL CLIP	.75
	EA CHERRY PEPPERS	.90		EA EA TWEEZERS	.45
5	EA SLIM JIMS	.20		EA SEMING KIT	.80
				EA LAVORIS	.90
	EA RAISINS	.100		EA TOOTHBRUSHES	.65
	EA SKIPPY PEANUT BUTTER	.600		EA CLOSEUP TOOTHPASTE	.80
3	EA APPLE PIES	.200		EA POLIGRIP	1.00
1	EA CHERRY PIES	.200		EA POLIDENT	1.15
				EA TAMPAX'S	1.80
	EA MUSKETEERS	.15+		A-REG B-SUPER	
	EA SNICKERS	.15+		EA DISPOSABLE DOUCHE	.60
	EA HERSHEY/ALMONDS	.15+		EA EMORY BOARDS PK6	.30
	EA LIFESAVERS	.15+		EA DENTAL FLOSS	.60+
25	EA PENNY CANDY (MAX-25)	.01		EA MOXZENA SKIN CREAM	1.20
	EA VICTORS COUGH DROPS	.20		EA ARTRA SKIN CREAM	1.40
				EA HENHEN'S BABY POWDER	.70
	EA BIC PENS	.20		EA HENHEN'S BABY OIL	.75
	EA PLASTIC PITCHER	.70.61		EA QUIN'SANA FT POWDER	1.00+
	EA TUMBLERS	.30		EA JERGEN'S LOTION	1.05
				EA CHAP STICK	.50
				EA AFRO SHEEN LOTION	1.00
				EA AFRO SHEEN COMB EASY	1.00
				EA CHEER SOAP POWDER	.75

USA 330-476
(ED. 4-23-71)

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

U. S. DIST. COURT
S. D. OF N. Y.
PX 134

1002

JA 1856

EA GILLETTE TRAC 2 SET
 EA GILLETTE TRAC 2 BLADES
 EA MAGIC SHAVE - BLUE
 EA " " RED
 EA " " GOLD
 EA SHAVING BRUSH
 EA STYPIK STICK
 EA AFTA SHAVE
 EA Q TIPS
 EA SHOE POLISH
 A- BLACK B - BROWN

LIMITS ON THE FOLLOWING ITEMS

I - FRUITS - 10
 II - PENNY CANDY - 25
 III - CANDY - 10
 YOU ARE PERMITTED TO SPEND \$15.00 PER WEEK AND NOT TO EXCEED \$50.00 PER MONTH...

THE FOLLOWING ITEMS ARE NOT INCLUDED IN \$50.00 MONTHLY LIMITATION...

EA APPLES
 EA ORANGES
 EA GRAPEFRUITS

I - RADIOS
 II - WATCHES
 III - GYM SUITS
 IV - SNEAKERS

EA RIMES
 EA RIMES JEWELS

ALL CASH ITEMS ARE POSTED ONE DAY AFTER YOU RECEIVE YOUR PINK RECEIPT FROM THE MAILROOM...

BATTERIES

EA SIZE AA
 EA SIZE C
 EA SIZE D
 EA SIZE 9V

ALL NONCASH ITEMS EXCEPT POSTAL MONEY ORDERS ARE SUBJECT TO 30 DAYS CLEARANCE

EA SOAP DISH
 EA DIAL SOAP
 EA IRISH SPRING
 EA SPEED STICK
 EA MUM
 EA SECRET ROLL-ON

NAME DA JO SELLER
 NO. 92675 SECTION 11 NORTH
 ROOM NO. D-1130
 SNEAKERS 18.00
 sizes - 8 1/2 9 9 1/2 10 10 1/2

EA SHOWER SHOES

11 11 1/2 12 13

A-SML B-MED C-LGE
 EA ATHLETIC SUPPORTERS
 A-SML B-MED C-LGE

2.20 SWEATSUITS 13.20

EA COMPOSITION NOTE BOOK

A-SML B-MED C-LGE
 .75

EA RADIO

26.90+

EA GYM SHORTS
 A-SML B-MED C-LGE

2.95

Watches

USA 83a-47b
 (L.D. 4-23-71)

EXHIBIT
 U. S. DIST. COURT
 S. D. OF N. Y.

P-134

A 1857

EXHIBIT
U. S. DIST. COURT
S D. OF N. Y.
POSITIONERS'

151

[Signature]

FPI-MI-9-24 76-25W-5315

SITE VISIT FINDINGS AND RECOMMENDATIONS

Metropolitan Correctional Center
New York, New York

Judy F. Wilson, R.D., MSPH

Metropolitan Correctional Center
New York, New York

On Saturday March 5, 1977, the Metropolitan Correctional Center was visited for the purpose of inspecting the food service operation. The Inspection Team consisted of, Michael Mushlin, Legal Aid Counselor., Glora Clark, R.D., and myself.

The findings enumerated in this report are based on interviews with Captain Bergen, John Douglas, Correction Officer 7 North, Luis Reyes, Kitchen Manager 11 South, Mr. Lee Nerenberg, Food Service Supervisor, the Warden, and numerous inmates housed in 7 North, 5 South, and 11 South. The three housing areas previously referred to were inspected, as well as the main kitchen area.

7 North

We arrived at MCC at approximately 10:45 a.m., and were escorted by Captain Bergen to 7 North. Food was being served when we arrived at about 11:15 a.m., and an estimate of one half of the inmates had already been served.

According to Officer Douglas, the census on March 5, 1977 was forty-five (45) inmates. Officer Douglas indicated that 48 trays of food had been received.

Findings and Recommendations

1. Responsibility for the actual service of foods to detainees, seem to rest solely with the inmates working in the Food Pantry. It was observed that these inmates are not diligent in complying to established policies. Noted was the fact that none of these inmates wore hats or aprons as specified in the response to interrogatory #130, although the hair of said inmates was relatively long.
2. Inmates used their hands to pick-up such items as bread. No gloves were worn. Inmates smoked in the pantry while preparing and serving foods.
3. Six (6) plates were heated in the microwave oven simultaneously. Two (2) of these plates were placed directly on top of the food on the second level plates. Plates were stacked in three (3) levels.
4. There was obvious disparity in the size of servings on various plates. The amount of eggs on plates varied as much as plus or minus 1 oz.
5. Instruction for preparing Kool-ade are not adhered to; a 24 oz. container is used to make 6 gallons as opposed to the recommended maximum quantity of 2 gallons.

A 1859

6. One kosher diet was served, which was comprised of food items different than those of the general inmate population. However, I observed the Muslims and other non-jewish, non-pork eaters were not afforded the same privilege. The pork items were simply omitted; no substitute was given to compensate for the loss of nutrients.

7. The brunch meal was sampled, and evaluated by Mrs. Clark, and myself and was subsequently rated according to the factors specified below. The brunch menu consisted of scrambled eggs, bacon, hash browned potatoes, an orange, white bread with margarine, milk, apple jelly, and coffee. For the purpose of this component only the eggs, potatoes, and bacon were tested since they were the only cooked items.

Evaluation of:

Evaluating Factor	Eggs	Bacon	Potatoes	Overall, including other foods served
Texture	Good	Poor	Poor	Fair
Flavor	Good	Good	Poor	Good
Odor	Good	Good	Poor	Fair
Shape and Form	Poor	Poor	Fair	Fair
Seasoning	Fair	Good	Poor	Fair
Consistency	Poor	N.A.	Poor	Poor
Temperature	Good	Good	Good	Good
Degree of Doneness	Poor	Poor	Poor	Poor - Overdone
Portion Size	Overdone	Overdone	Overdone	
	Uniform	Good	Uniform	Uniform

A 1860

Bacon was not uniformly cooked because it was not laid out properly during the pre-cooking stage. Potatoes were dehydrated and were not palatable; had a soapy taste.

8. Sugar was not placed out for inmates until the lack of sugar for cereal was questioned. It was then placed in the same type of container as the salt. The containers were not labeled. It was noted that the bags, in which salt and sugar were sent to floors, were unidentifiable. Salt was dipped with fingers.

9. The handwashing sink had neither soap nor towels.

10. No thermometer was available to test the temperature of food.

11. Plates of food were heated without plastic covers, which does not allow uniform heating through the plate's content.

12. Shoes and socks not worn by food service workers, which violates safety procedures since hot food dropped could cause injury.

13. A survey was taken to determine the amount of plate waste (uneaten food). Plates that had been placed in the carts by 11:45 were included in the study, the results of which are listed below.

Plate Waste Study

Number of Plates in Study	=	30
Number of Plates with a substantial (2 ⁺ oz.) amount of potatoes uneaten	=	21
Number with eggs uneaten	=	4
Number with all food eaten.	=	5
		<u>30</u>

This survey verifies our conclusion that the potatoes were lacking in flavor, seasoning, consistency and had less than a pleasant odor.

14. Interviews with 15 inmates revealed the following:

Food had been better during the week of March 1st

Eggs are not cooked

Potatoes like rubber

This week quantity and quality has been better

Chicken too hard and blood was coming out

Not enough utensils or bowls for food

Dirty trays usually returned to kitchen - today cart was rolled out

Plastic silverware used usually

Sugar and salt gets mixed

Silverware often dirty

Food good sometimes - not properly prepared sometimes

Get milk once a day

Grits not heated properly could be picked up in one piece from plate

Recommendations

1. Training and orientation programs for inmate food service workers should be an ongoing activity. Continuous training is time consuming, but pays dividends in achieving and maintaining high standards of efficiency and quality. It is recommended that such training be conducted at a minimum of once monthly. Basic principles of safe food handling, sanitation, housekeeping and efficient work methods should be taught during these sessions.
 2. The essentiality of adequate orientation, training and supervision to the overall efficiency and quality of food service, must be recognized, especially when workers assigned for dietary service are basically unskilled, when entering the institution. An awareness of the objectives and policies of the administration and the relationship and importance of his role to success of the operation is required.
 3. Inmates should not have the unsupervised responsibility of issuing food to other inmates. It is felt that this system could result in food being denied to certain inmates, considering the power structure that develops in various groups. It was my observation that this supervisory activity cannot be performed by the correctional officers who, during meal service, are consumed by the job of controlling the flow of inmates.
- Additionally, paid supervisors are needed in the food pantry to insure that inmates adhere to proper procedures. Particularly, in terms of food handling techniques, use of microwave oven and time setting, serving, and when applicable, preparation methods.
4. Immediate steps need to be taken to eliminate the disparity in portion sizes.
 5. Since special diets are provided to persons of the Jewish religion, similar consideration should be given to other religious faiths. Appropriate substitutions should be made available to compensate for calories and other nutrients lost through the omission of the restricted foods. Proper menu planning procedures should be used in making these substitutions.
 6. The food service administrator should routinely survey plate waste and the general acceptability of meals served. When it is obvious that an item is not well received, this food should be omitted from future meals to the extent feasible.

A 1862

7. Adequate handwashing supplies must be available in kitchen areas.
8. Heated foods should be tested to insure that they are heated to the proper temperatures.

Five (5) South - Women's Area

Five (5) South was visited at about 12:00, the brunch meal service had been completed. Therefore, observation of procedure was not possible, however, several interviews with female inmates were completed.

Findings

1. Four (4) plates of food were heated in the microwave oven, which was set for thirty (30) seconds as opposed to two (2) minutes with six (6) plates in 7 North. Special reheating requests are honored, if feasible.
2. A toaster was available in this area, therefore, women were served toast instead of plain white bread and margarine.
3. Conversations with one inmate revealed possible problems in the timely filling of therapeutic diet orders by the attending physician. I spoke at length to Thelma Darby, who indicated that she is a diabetic requiring oral hypoglycemia agents. She stated that the prison physician had requested a diabetic diet for her. But she was unable to tell me how many calories the diet consisted of or what foods were contraindicated for her. Significant is the fact that she specified that she had gained 18 pounds in the three (3) weeks of her incarceration. No diet request was on file for Ms. Darby in the kitchen.
4. While most inmates had been serviced, a couple of plates were in the process of being heated when we arrived. The female involved in this activity did not wear a hair net or apron.
5. The handwashing sink had soap, but no towels and scouring powder was stored with clean dishes.
6. The following comments were obtained in interviews with ten (10) female inmates:
 - Menus are adhered to most of the time, but menus contain too many frankfurters, wieners, polish sausage and the like.
 - Ground beef is loaded with fillers.
 - Foreign objects found in food, such as glass.
 - Chicken is tough.

Recommendations

Same as indicated for 7 North. Additionally, it is recommended that the time lapse between request of special diets and the provision of same be analyzed. A procedure should be established that will facilitate the filling of therapeutic diets, within a maximum of 24 hours of request.

Eleven (11) South (Men's Dormitory Area)

This unit houses an average of 120 men who are assigned to dormitory units that contain approximately twenty (20) men each. Unlike the other units, where men pick-up trays at liberty, all men in 11 South are locked in dormitories when food carts arrive and are later released twenty (20) at a time. They are permitted to return to their cells or remain in the common area to eat meals. It is my understanding that this is a recent phenomenon; previously, men were locked in dormitories after obtaining meals. Noticeable was that there were only seven (7) tables in the common area and few chairs, therefore, in actuality, the men continued to be forced to eat in the dormitory area.

Findings

1. There was inadequate seating for all inmates to eat at tables comfortably.
2. Mr. Luis Reyes indicated that four (4) inmates work in the food pantry at each meal. Inmate employees are chosen by Mr. Reyes. Noticeably, all inmates except one were Spanish speaking. There seems to be some dissatisfaction with this pattern by other ethnic groups.
3. I was informed by various inmates that the food sent to the dormitory was frequently short several plates. The main kitchen would later send up additional trays containing foods different than those on the menu. This causes dissatisfaction among inmates, especially when the substitutes are less desirable than the regular menu item.
4. Mr. Reyes informed me that no formal training was conducted for manager of Food Pantries.
5. He further verified that inmates working in the Food Pantry did not wear hats or aprons. Supplies of hats were available in this area.
6. Mr. Reyes indicated that food plates were heated for fifteen (15) seconds, with four (4) plates per oven. Two (2) microwave ovens were available to heat the 120 trays.
7. Food is considered a contraband and food packages from home are not permitted.

8. The following comments were obtained through interviews with twenty (20) inmates:

- Food has improved in the past two (2) weeks
- Potatoes seemed to be constant complaint because of taste
- Portion sizes have improved since court case
- Portions not uniform
- No salt or pepper issued to these floors
- Chicken was tough

9. Extra trays were kept in the pantry for use during meals.

Recommendations

Same as 7 North and 5 South. The following additional recommendations are made:

1. Adequate tables and seating should be provided to allow inmates to eat comfortably. Chairs should be provided for tables located in common area, and the policy of permitting inmates to dine in this area should be continued to effect a more social eating atmosphere.
2. Applications should be obtained for inmates interested in the job of Food Pantry Manager and experience and other qualifications should be used as a criteria for choosing the person for the job. All inmates should have equal opportunity to apply and be considered for various food service jobs. Compliance to the non-discrimination laws should be enforced.
3. Census counts should be verified close to tray preparation time to prevent shortages of foods, however, occasionally shortages may occur. When this happens, an attempt to provide a substitute of parallel acceptability is highly desirable.
4. Relatives should be permitted to bring food packages. For security purposes, it is understood that certain suspect foods would be disallowed; however, fruits, unopened, canned and bottled goods, as well as homemade items such as cupcakes or cookies, which could not hold weapons, should be permissible.
5. The extra trays required for this area should be sent from the kitchen each day. Used trays should be returned with the evening meal so that they can be washed and sanitized.

Main Kitchen Area

The person responsible for management of Food Service Operations is Mr. Branch, who has a staff of six (6), including an assistant and five food service supervisors. His kitchen staff is supplemented by thirty-five (35) inmates comprised of both sentenced and pretrial detainees.

Findings

1. Menus are planned in the National Bureau of Prison Office and distributed to various prisons. The Food Service Administrator has the option of revising the menu in consideration of local food preference and consumption patterns. Mr. Nerenberg, Food Service Supervisor, indicated that a thirty-five (35) day cycle is used. He further indicated that menus reflect seasonal variation, availability and costs.

My review of menus served in January, February, May and June, 1976, revealed that menus are generally repeated at two (2) week intervals. For example, menus served on May 2, 3, 4, 6, 7 and 8 were also served on June 6 and 18, June 7 and 19, June 8 and 20, June 10 and 22, June 11 and 23, and June 12 and 24 respectively.

In comparing the May-June menu with the January-February menu, it was determined that there was little variation between the Winter and Summer cycle. For example, items served on January 25, 26 and 27, 1976, were also served on June 13, 14 and 15, 1976.

Substitutions of side dishes are made as necessary by Food Service Supervisor without consulting with the Administrator or his assistant.

2. Mr. Nerenberg also indicated that three (3) days may elapse between the time a medical diet is ordered and the time it is provided.

3. Mr. Nerenberg also specified the following times for the acquisition of census data for meals:

3:30 a.m.	-	Breakfast Count
6:00 a.m.	-	Lunch
3:00 p.m.	-	Supper

Captain Bergen verified that the census can fluctuate substantially between these times and meal service times of:

6:30	-	Breakfast
11:30	-	Lunch
5:00	-	Supper

These variations can account for the discrepancies in the number of meals sent to floors.

4. Supervision of tray service is a responsibility of the Shift Supervisor.
 5. Standardized recipes are used and were available for inspection. However, there was evidence contradicting use of these recipes. Namely, as it relates to the preparation of Carrot and Raisin Salad.
 6. A significant proportion of the food items are prepared the day before they are to be served, including such items as meats, vegetables, bread and desserts. These foods are held in refrigerators, served on plates and sent to the food pantries. They are then heated in microwave ovens prior to service to inmates.
- Mr. Nerenberg indicated that items, such as hot cereal and eggs, are prepared on the morning of the day they are served.
7. Written detail work and duties schedules are not utilized. Instead, the Food Service Supervisors must give verbal instructions to inmates before preparation time.
 8. Like inmates employed in food pantries, kitchen workers did not participate in formal training. Mr. Nerenberg indicated that training is unnecessary because of the short time inmates are detained at MCC.
 9. Inmates did not wear hats or gloves throughout the preparation stage. Hats and (plastic bags?) were distributed by Mr. Nerenberg near the end of the preparation process. Again some inmates had very long hair.
 10. Carrot and Raisin Salad was left uncovered near soiled dishwater in pot-washing area. Raw garbage was also in the same area very close to the sink. The salad could very easily become contaminated from the H₂O or garbage.
 11. The storage room was not drained properly. Puddles of water were on the floor. Food items were stored on the floor. Generally, the area was poorly organized, making it most difficult to conduct an inventory.
 12. The freezer unit, like the dry storage room, was very disorganized: foods were stacked from back to front on floors leaving no aisle. Large amounts of sausage, beans, cutlets and roasts were stored unwrapped, and were severely freezer burned. The organization of the freezer unit does not permit proper airflow. Temperature - 2°F.
 13. Food was stored uncovered in the refrigerator units. Again, food was stored directly on the floor, specifically, meat, carrots and celery. Debris littered the floors of units. Temperature in Unit 1 was 45°F and Unit 2 was 47°F. Broccoli, meats, potatoes and other foods were uncovered.

14. Therapeutic diet plates consisted of same foods as general population. The diets are referred to by numbers (1 - 2, A, B or C). The name of the inmate requiring the diet along with the diet number(s) is used in setting up diet trays.

15. The diet manual was not available for inspection.

16. Cleaning schedules were not available for inspection.

17. Inventory procedures not clear.

18. Discrepancies were observed in the size of the meatloaf served, varying as much as one (1) ounce. Carrot and Raisin Salad placed on top of carts and taken to floors uncovered.

19. General observation-Inmates were not diligent in carrying out their job. Our presence could have contributed to this or it could be due to lack of understanding of the important role they play and the contribution they make to the successful operation of the Food Service System. Additional supervision and adequate instructions are imperative, particularly when untrained personnel is hired.

Adequate training, supervision and written instructions in my opinion, would result in a more cooperative relationship with inmates and impact the efficiency of the entire unit.

20. Steam pipes had water, debris and food particles in trench, which is an ideal breeding place for bacteria, roaches and flies.

21. Gravy and potatoes out in kitchen on racks, unrefrigerated for over an hour, which could be ideal for bacterial growth.

22. Supper meal did not exhibit good principle of menu planning in terms of color and composition as indicated below:

<u>Item</u>	<u>Color</u>
Meatloaf	- Brown
Potatoes	- White
Gravy	- Brown
lima Beans	- Tan
Macaroni Cake	- Brown
Noodle Soup	- Brown
Carrot and Raisin Salad	- Brown

22. Steampot kettle had solid ingredients left, since faucet did not allow enough to empty into containers used to take soup to floors. A spoon should have been used to dip out solid ingredients; since this was not done, inmates received mostly broth.

Recommendations

In addition to the recommendations previously made, the following are also strongly suggested:

1. All menu changes should be recorded on the master menu. The items used as substitutes should be of similar nutritional composition to insure that adequate nutrients are provided and should harmonize in terms of flavor and color with the rest of the food items.
 2. Menus should be planned to include more seasonal foods and greater total variety.
 3. The census of various housing units should be checked closer to meal time to diminish the amount of tray shortage.
 4. When standardized menus are computed, both the amount of ingredients and instructions should be given to inmates.
- EXAMPLE: The number of the sieve used for grating carrots for salad should have been specified.
5. Foods should be prepared and served the same day, since adequate equipment, space and staff are available. Palatability would increase, nutrient losses, opportunity for contamination and bacterial growth would decrease.
 6. Food handling procedures need to be stressed to prevent contamination of food. Ongoing training in this area is a must.
 7. Perpetual inventory system should be instituted; this procedure would decrease pilfering.
 8. All storage areas should be organized in a manner that facilitates the accessibility and identification of foods, diminish flavor and nutrient losses and permit easy cleaning.
 9. Miniature diet sheets should be used when preparing therapeutic trays; these sheets should identify the type of diet, specify the food items to be served, the size of the serving, as well as the name of the inmate and his/her housing area.
- The therapeutic diet manual should be available for reference, when substitutions are made.
10. Routine written cleaning schedules should be developed that would provide cleaning instructions for all equipment, work areas and would specify the frequency of cleaning.
 11. Portion control measures need to be instituted. Standardized portions avoid unnecessary waste and confusion among inmates. Portion sizes should be posted in the food preparation and serving areas.

USA 33a-415
(ED. 4-23-61)

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.
PETITIONERS'

152 *10*

FPI-MI-9-25-76-25M-5315

A 1869

METROPOLITAN CORRECTIONAL CENTER

NEW YORK, NEW YORK

Nutrition Evaluation Report

Judy F. Wilson

METROPOLITAN CORRECTIONAL CENTER
NEW YORK, NEW YORK

Nutrition Evaluation Report

INTRODUCTION

Food quality and adequacy has been one of the most frequent complaints in inmate uprising. This is not surprising since food has social significance as well as health implications. Good food service is important in promoting a better relationship between inmates and the prison administration.

DIETARY STANDARDS

The requirements of a good diet have been translated into the Recommended Dietary Allowance (RDA) by the food and nutrition board of the National Research Council. The RDA is defined as "the level of intake of essential nutrients considered in the judgement of the Food and Nutrition Board on the basis of available scientific knowledge, to be adequate to meet the known nutritional needs of practically all healthy persons."¹ It should be emphasized that the RDA does not take into consideration therapeutic nutritional needs.

A diet consisting of ordinary foods meeting the RDA should be adequate to maintain health. However, since present knowledge of nutritional needs

¹Food and Nutrition Board, Recommended Dietary Allowances, National Academy of Sciences. National Research Council, Washington, D.C. 1974

are incomplete, in that requirements for many nutrients have not yet been established, the RDA should be provided from a wide variety of foods. This provision will help insure that possibly unrecognized nutritional needs are met; and since food has no nutritional value unless consumed, foods providing the RDA should be acceptable as well as palatable. Foods served should satisfy social and psychological needs, as well as nutrient requirements.

The RDA will be the standard used to evaluate the nutritional adequacy of meals served at MCC.

The Essential of Adequate Diet (EAD), a more simplistic tool, will also be used. The EAD divides foods into four groups on the basis of their similarity in nutrient content. They are as follows:

Meat Group

Vegetable and Fruit Group

Milk Group

Bread and Cereal Group

Other foods, i.e., fats and sugars, while not included in the basic four, should be added to provide additional calories. Each of these food groups make a special contribution toward an adequate diet.

This evaluation of MCC focuses on the following areas:

I. Nutritional Adequacy

- a. RDA
- b. Therapeutic Diets

II. Menu Planning

- a. Variety and appetite appeal
- b. Religious considerations

III. Staffing

I. NUTRITIONAL ADEQUACY

a. RDA Analysis

A nutrient analysis was completed on meals served on May 2, 3, and 7th 1977. Menus for this week were chosen because they were served at least three times during the time for which menus were provided.

In completing the nutrient analysis, it was assumed that standard portion size and cooking methods were used.

A 1873

Table one indicates the results of the analysis.

TABLE I

<u>NUTRIENTS</u>	<u>THREE DAY TOTAL</u>	<u>AVERAGE</u>	<u>RDA MEN 21 - 50</u>
Calories	7,759	2,586	2,700
Protien gms	217	72.3	56
Fat gms	286	95.3	NA
Carbohydrates gms	1,103	367.6	NA
Calcium mg	2,625	875	800
Iron mg	32.58	10.86	10*
Vitamin A I.U.	21,506	7,168.5	5,000
Thiamine mg	4.22	1.4	1.4
Riboflavin mg	6.01	2.0	1.6
Niacin mg	43.37	14.45	18
Ascorbic Acid mg	240.4	80.13	45

Ninety one percent of male inmates are between 19-50 years of age, thus nutrients are provided in sufficient quantities to meet the RDA with calories as the only exception (although niacin is not provided at 18 mg by the meals, sufficient protein is available for conversion to niacin by the body). Although the RDA for calories is not met, this minor deficient could be provided by fat added to vegetables during cooking, or, the consumption of extra sugar or jelly.

Iron is not provided in sufficient amounts to meet the recommended allowance for women. A deficiency in iron intake could lead to iron deficiency anemia among females with symptoms of skin pallor, weakness, headaches, dizziness, easy fatigability and loss of appetite.

D. THERAPEUTIC DIETS

Therapeutic diet menus were provided for the period of February 20-March 5, 1977. Bland, low calorie, diabetic, restricted sodium and cholesterol modified diets are available as prescribed by the physician.

Foods appearing on the menus are only those that are sent individually from the main kitchen. Consequently, a nutrient analysis of therapeutic diets would not yield reliable results since all items to be served are not specified on menu sheets.

A review of the menus revealed that they were repetitive and sometimes lacking in color appeal; their nutritional adequacy is also questionable. Between meal nourishments are not provided as recommended for diabetics and persons requiring bland diets.

II. MENU PLANNING

a. Variety and appeal

Generally, meals are repeated at two to three week intervals, with minor modifications such as switching lunch to evening or the addition of a different side dish. For example, Beef stew with

buttered noodles was served on May 3, May 14, June 7, and June 9, 1976.

Potatoes are served an average of seven (7) times per week and often twice per day. For example, on May 21, 1976, hash browns were served at breakfast, potato salad at lunch and over brown potatoes at dinner. Repetitiveness is indicative of poor menu planning which results in decreased variety in the diets of inmates. A varied diet is required to insure that requirements of trace minerals are met.

The therapeutic meals are even more limited. In a two week period roast beef was served four (4) times, turkey three (3) times, beef patties five (5) times and potatoes fifteen (15) times.

It is recommended that the Bureau of Prison Procedures for menu planning be used (Section II 2330 B) in planning all menus.

b. Religious consideration

A main consideration in the preparation of menus, is the ethnic composition of people who will consume the meals. Consideration should be given to providing foods the group likes and

can eat, since food has no nutritional value unless consumed. Religious food practices should be considered.

While kosher meals are provided at MOC for persons of the Jewish faith, the same consideration is not given to Black Muslims. Diets for Muslims consists of the regular meal minus the pork items. Substitutes should be provided to reconcile the nutrients lost. My nutrient analysis showed that omission of pork items resulted in low intakes of iron and thiamin. If acceptable, the kosher meal could be provided for Muslims when pork items are served. Milk products could be made available to Muslims with the kosher meal.

III. STAFFING

Paid staff at MOC currently consists of an Administrator, Assistant Administrator and five (5) Food Service Supervisors.

In light of the reported rate of turn over in inmate staff, it is strongly recommended that paid cooks be employed. Professional food service staff will increase productivity and general efficiency and will be able to work closely with inmate staff. Food Service Supervisors will then be relieved to direct and supervise the food service operation. The number of additional staff hired should be carefully evaluated when setting up work schedules.

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

A 1877

VITA

HARVEY N. ALTER

Home Address:

165 Christopher Street
New York City, N. Y. 10014
212/675/0742

Office Address:

State of New York
Division of Criminal
Justice Services
270 Broadway
New York, N.Y. 10007
212/488/6684

Personal Information

Date of Birth: February 5, 1946
Place of Birth: Irvington, New Jersey

Education Training

B.S., Education Emerson College, Boston, Massachusetts 1969
M.A., Sociology Montclair State College, Upper Montclair, N.J. 1973
M.A., Criminology Montclair State College, Upper Montclair, N.J. 1974

Experience in Corrections

Chief of Corrections
State of New York, Division of Criminal Justice Services

Executive Director
National Association on Alternatives to Incarceration

Acting Director
Offender Assistance Through Community Colleges project of the
American Association of Community and Junior Colleges

Executive Director
The First National Conference on Alternatives to Incarceration
in the United States

Executive Director
The National Task Force on Higher Education and Criminal Justice

Senior Planner and Director of Education Release
Massachusetts Department of Corrections

Researcher in Corrections
United States Office of Education, Teacher Corps Corrections Project

Inmate
Norfolk State Prison, Walpole State Prison

Positions Held (1969 - Present)

Current Position: Chief of Corrections, Standards and Goals Division of Criminal Justice Services, State of New York

Responsibilities include the development of standards and goals in the areas of Corrections, Parole and Probation for the State of New York, the development and staff leadership of the Statewide Task Force on Corrections, the development of position papers to examine the role of New York State in relationship to national trends in Corrections, direct the research and assembly of data to identify and define Corrections problems through close cooperation with all existing State Criminal Justice Agencies.

Sept. '75 - Nov. '76 Executive Director, National Association on Alternatives to Incarceration in the United States

Responsibilities include: Planning and implementing the Second National Conference on Alternatives to Incarceration in the U.S., Publication and dissemination of a National Guide on Alternative Correctional Programs, Provision of technical assistance to organizations, state and federal agencies in the development of alternative programs.

Feb. - April, '76 Acting Director, Offender Assistance Through Community Colleges

A program sponsored by the Department of Health, Education and Welfare administered through the American Association of Community and Junior Colleges.

Responsibilities included directing the national office and programmatic management of three sites: Jacksonville, Florida; Charlotte, North Carolina, and Denver, Colorado. Goals of the program included the diversion of first-time felony offenders into community college programs, dissemination of information and technical assistance.

Sept. '75 Executive Director, The First National Conference on Alternatives to Incarceration in the United States

HARVEY N. ALTER

Responsibilities included: Design and implementation of the conference which was attended by 1,800 persons from 43 states including officials from local, state, and federal agencies. A comprehensive approach was taken to show the current "state of the art" in this country's effort to develop alternatives to incarceration. Programmatic examples of all types of alternative programs and approaches were included in a program that presented current issues and thinking in this area.

Sept. '73 -
Sept. '75

Executive Director, National Task Force on
Higher Education and Criminal Justice

A program established to develop, implement and evaluation programs in community-based corrections using the resources of higher education as alternatives to the current system of incarceration in the United States. Responsibilities included staff budget management in addition to designing and evaluating alternative and experimental programs in corrections throughout the country working with State Departments of Corrections, universities, colleges, businesses, local communities and church organizations. Recent activities included serving as technical assistant to C.B.S. News on the production of a half-hour special documentary "Release and Renewal"- a study of education release in the Massachusetts Correctional System; and the design and implementation of the First National Conference on Alternatives to Incarceration - a national forum to examine this country's attempts to develop alternatives to traditional incarceration.

May, '73 -
Sept. '73

Director, Education Release, Commonwealth of
Massachusetts, State Department of Corrections

Responsible for the operation of community-based educational release programs. Designed and implemented education release at four year colleges and a community college. Developed and taught course at North Adams State College on "Community-Based Corrections," placing adult offenders as counselors working with juvenile offenders in alternative group home and school. Devised a community education program for the Department of Corrections in North Adams and Greenfield, Massachusetts.

June, '72 -
May, '73

Researcher in Corrections, New Jersey State
Correctional Institutions (U.S. Office of
Education, Teacher Corps. Corrections Program)

Responsible for the monitoring and evaluation
of the U.S. Teacher Corps Corrections Program
operating in six correctional facilities in the
State of New Jersey. Developed work-release
program at Rahway State Prison. Developed
program to use video tape in the evaluation of
correctional programs. Earned academic
distinction for the first video-taped Masters
thesis on Higher Education and the Correctional
System.

June, '69 -
June, '72

Inmate School Teacher, Massachusetts Correctional
System

While incarcerated held the position of Inmate
School Teacher and Assistant to the School
Principal (Massachusetts Correctional Institution,
Norfolk). Designed and taught the High School
Equivalency Program and published: Guide for
Teaching High School Equivalency in Correctional
Institutions (State Purchasing Agent, Commonwealth
of Massachusetts, 9/71).

Professional Affiliations

American Correctional Association
American Society of Criminology
American Association for the Advancement of Science
New Jersey Association on Corrections
Massachusetts Council on Crime and Corrections
American Sociological Association
American Bar Association--Commission on Correctional Facilities
and Services
National Council on Crime and Delinquency

Professional Activities (Papers and presentations)

Research and Technical Assistance in evaluating community based
correctional programs for the American Correctional Association
and LEAA (4/28-5/8/75)
American Association of Higher Education, "Breaking Into Prisons"
(2/7/75)

Boston University, Criminology, New and Old
Boston, Massachusetts, invited lecturer (3/2/74)
University of Massachusetts, Colloquium on the Sociology of Corrections
Boston, Massachusetts, invited lecturer (5/7/74)
Virginia Commonwealth University, Virginia Department of Corrections,
Campus Ministry, Charlottesville, Virginia, speaker (5/10/74)
State of Illinois, Department of Corrections, Conference on
Correctional Education, Springfield, Illinois, speaker (4/9/74)
Corrections and Higher Education: Assuming a Mutual Responsibility
National Council on Crime and Delinquency, Racine, Wisconsin,
speaker (12/15/73)
(Forthcoming paper: Classification of Higher Education Programs
in Corrections)
National Symposium on Alternatives to Incarceration of Youth
Hot Springs, Arkansas, major speaker
The Criminal Justice System and Prison Reform
Bucknell University, Lewisburg, Pennsylvania, invited lecturer
American Bar Association, Commission on Correctional Facilities and
Services, William Paterson College, New Jersey, invited panelist
American Association for the Advancement of Science
American University, Washington, D.C., invited panelist (11/5/72)
National symposium on the Planning and Design of Correctional
Environments, University of Illinois, Urbana Champaign, invited
panelist (12/4/72)

LC:mc
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A 1832

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA ex rel,
LOUIS WOLFISH, et al.,

Relators,

- against -

EDWARD LEVI, et al.,

Respondents.

RESPONDENTS' ANSWERS
TO RELATORS' INTER-
ROGATORIES

75 Civ. 6000 (MET)

The Respondents, by their attorney Robert B. Fiske Jr., United States Attorney for the Southern District of New York, as and for their Answers to Relators' Interrogatories served on March 4, 1976, reserving their right to object to the admission in evidence of any or all such answers on the ground that they or any of them are irrelevant and immaterial to the issues in this action, and further reserving their right to add, delete or correct the information contained herein, respond as follows:

Response to Interrogatory No. 1

BASEMENT

- (a) None
- (b) Not applicable
- (c) Not applicable
- (d) Not applicable
- (e) and (f) The kitchen, storage areas, commissary,

work areas, machinery, plant and equipment are located in the Basement.

USA 53-473
(ED. 6-23-71)

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Set. 5'

2-11-76

A 1883

<u>Equipment</u>	<u>Date of Installation</u>	<u>Floor</u>
<u>Pending installation of equipment as of March 10, 1976</u>		
Body bags		Roof
Basketball back court		Roof
Hooks to hold mats off floor		Roof
Punching bags		All floors
Chinning bars		All floors
Exercisors		All floors
Mats		All floors

Response to Interrogatory 19

When MCC opened no schedule had yet been worked out for visits to the roof. During the month of August visits to the roof were therefore arranged only on a few occasions. During the Labor Day weekend roof visits were available for the following units: 9th floor North, 7th floor South, 5th floor North, and 5th floor South. Thereafter, the schedules in effect for roof visits are submitted herewith as Exhibit 19. Beginning in April, 1976, the number of hours scheduled for roof visits will be doubled.

Other than for reasons of inclement weather the following is a list of all departures from said policies and the reasons therefor:

<u>Dates</u>	<u>Schedule</u>	<u>Reason</u>
Oct. 7-17	Cancelled	No coverage - recreation specialist on vacation
Oct. 19-31	Occasional visits	Security repairs on roof
Dec. 27	Cancelled	No coverage - correctional officer assigned to custodial duties
Jan. 16	Cancelled	No coverage - correctional officer sick
Jan. 26 1-2:30 P.M.	Cancelled	No coverage - custodial duties

LGC:slc
d-264

A 1884

<u>Dates</u>	<u>Schedule</u>	<u>Reason</u>
6:30-7:30 P.M.	9th floor went instead of 2nd and 5th floors	
Jan. 28	Cancelled	No coverage - outside entertainment
Jan. 29	Cancelled	No coverage - labor management meeting
Jan. 31 1:15-2:30 P.M.	Cancelled	No coverage - custodial duties
Feb. 1	Cancelled	No coverage - correctional officer sick
Feb. 10 1-2 P.M.	Change in hours Cancelled	Elevator use No coverage - custodial duties
Feb. 11 1-2 P.M.	Cancelled	No coverage - meetings; no radio or time sheets
Feb. 18-19	Tournaments	
Feb. 21 1-2:35 P.M.	Cancelled	No coverage - lunch duties
Feb. 24 1-1:50 P.M.	Cancelled	Work crew on roof
Feb. 25-27	Cancelled	Sculpture classes and fashion show
Mar. 1	Basketball	
Mar. 3	Cancelled	E.E.O. meeting
Mar. 4 1-1:30 P.M.	Cancelled	No coverage - recreation specialist not on duty (doctor's appointment)

Response to Interrogatory 20

January 7, 1976. 32 Army field jackets are stored in the hall leading to the roof; in addition, 120 more of these jackets are available for use by inmates.

USA 33s-475
(E.D. 473-71)

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

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A 1885 / 20
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N. Y. MCC

RESEARCH

QUARTERLY REPORT

7/76 through 9/76

(Third Quarter, '76)

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A 1837

INTRODUCTION

This quarterly report attempts to present both a static and dynamic picture of the MCC and an idea of the status and future planning of the MCC Office of Research. The static picture of the MCC is represented by the Inmate Profile, while the dynamic aspect can be seen in the Management Information section.

The Writers respectfully suggest that data presented here can be used as supportive material for information exchange with agencies and the public, or more importantly for program evaluation and condition forecasting. These data may even have implications for cost-effectiveness and hence, financial decision making. For example, costs associated with running programs, servicing inmate court traffic, servicing visitors, etc. can be determined by the hourly rate earned by officers and the number of inmates handled. At the Regional level, data from one institution can be compared with those of other institutions in the region to determine optimal programs and methodologies, to predict and plan for eventualities, etc.

A 1888

INMATE PROFILE

DATA

NYMCC Inmate Profile

A profile study was done of NYMCC inmates, covering a time period of April 26, 1976 through August 12, 1976. The study includes the responses of 460 newly admitted inmates who were interviewed through the joint efforts of the Office of Research and the Department of Mental Health. Some new questions were added to our interview form with the hope that they will better enable us to gauge the emotional climate of the MCC.

In the analysis of the data, we will present the statistical results of the study and point out any significant changes from our two previous profile studies.

Inmate Profile Results**A 1890**

The MCC inmate population is 91% male and 9% female, with blacks and whites comprising equal percentages of the population. Whereas blacks and whites are each 42% of the MCC population, Hispanics are 15%. As in our previous study, Hispanic is viewed as a racial classification, rather than an ethnic group, because the inmates viewed it that way when they answered the questions.

I. Sex

	<u>Number of Inmates</u>	<u>Percent for the Quarter Shown</u>		
		<u>3rd</u>	<u>2nd</u>	<u>1st</u>
Male	420	91.3	92.2	
Female	<u>40</u>	8.7	7.8	
Total	460			

II. Race

	<u>Number of Inmates</u>	<u>Percent</u>		
Black	188	42.3	43.3	38.2
White	188	42.3	41.6	37.9
Hispanic	67	15.0	8.8	12.6
Other	<u>4</u>	.4	6.3	11.4
Total	447			

* 16 inmates did not respond

Of the inmates surveyed, 76% were born in the U.S. and 53% resided in New York State before incarceration.

III. State or Country of Residence

	<u>Number of Inmates</u>	<u>Percent</u>	
New York	267	58.0	50.8
New Jersey	78	16.9	10.5
Puerto Rico	8	1.9	4.8
Other	<u>107</u>	23.2	33.9
Total	460		

IV. Country of Birth

	<u>Number of Inmates</u>	<u>Percent for the Quarter Shown</u>		
		<u>Percent</u>		
		<u>3rd</u>	<u>2nd</u>	<u>1st</u>
USA	346	76.2	77.2	76.3
Puerto Rico	35	7.7	7.2	---
Colombia	17	3.7	5.5	---
Other	<u>56</u>	12.4	10.0	---
Total	454			

* 6 inmates did not respond

As in our two prior studies, the largest percentages of inmates were Catholic and married. The average was 32.7 years while the average grade level of the inmates was 11 years.

V. Religion

	<u>Number of Inmates</u>	<u>Percent</u>		
Catholic	197	45.4	34.4	37.2
Protestant	102	23.6	19.4	22.5
Islam	45	10.4	7.2	8.1
Jewish	21	4.8	3.8	7.6
Other	37	8.5	1.6	5.9
None or Invalid	<u>31</u>	7.3	32.6	---
Total	433			

* 27 inmates did not respond

A 1892

VI. Marital Status

	<u>Number of Inmates</u>	<u>Percents for the</u>		
		<u>3rd</u>	<u>2nd</u>	<u>1st</u>
Legally Married	172	33.1	41.7	40.6
Common Law	63			
Single	146	14.0	8.3	19.4
Separated	42	32.3	32.2	24.6
Divorced	23	9.3	9.4	5.0
Widowed	5	5.0	6.7	8.3
Total	451	1.3	1.1	0.5

* 9 inmates did not respond.

Language

As expected, the only major language spoken by the inmate population, other than English, is Spanish. The statistics shown here should justify the use of both English and Spanish with signs, rules and regulations, notices, etc.

VII. Major Speaking Language

	<u>Number of Inmates</u>	<u>Percent</u>
English	379	83.7
Spanish	66	14.7
Chinese	3	.6
Greek	2	.4
French	2	.4
Slavic	1	.2
Total	453	

* 7 inmates did not respond.

A 1893

GRADE LEVEL

As can be seen from Table VIII, the average inmate at the NYMCC has obtained an 11th grade education. This is quite high as prison populations go. This high educational level is undoubtedly due to the fact that most of the inmates come from a highly sophisticated cosmopolitan area, with compulsory education laws.

Another notable finding is that the higher educated inmates are relatively less numerous than during previous quarters, yet the average grade level is still quite high. This would indicate a larger number of inmates who didn't graduate high school but who still got through the 11th grade.

VIII. Grade Level

	<u>3rd qtr</u>	<u>2nd qtr</u>	<u>1st qtr</u>
Average Grade Level:	11.0	10.9	11.1
<u>Grade Level</u>	<u>Number of Inmates</u>		
	<u>Percent for the Quarters Shown</u>		
Below 12	342	74.3	40.4
12-14	100	21.8	37.9
15- Over	15	3.4	18.4
Total	457		

* 3 inmates did not respond.

Drug offenses and bank robbery continue to rank first and second as the most prevalent offenses among the inmates (Table IX). This ordering of frequency of offenses has remained consistent for the last 3 quarters.

The ratio of inmates on detainer is also fairly consistent, at 21% (Table X).

IX.	Offense	Number of Inmates	Percents for the Quarters Shown		
			3rd	2nd	1st
	Narcotics Laws	115	25.0	16.7	31.5
	Bank Robbery	84	13.3	8.3	14.2
	Postal Theft	23	6.0	4.4	4.7
	Forgery	25	5.4	3.3	3.3
	Possession of Stolen Goods/Money	25	5.4	5.0	1.2
	Parole Violator	23	5.0	1.1	0.2
	Immigration	18	3.9	1.1	1.2
	Fraud	16	3.4	1.1	0.9
	Counterfeit	10	2.1	---	0.9
	Firearms	9	1.9	0.6	3.3
	Hijacking	8	1.7	1.1	0.9
	Interstate Theft	7	1.5	---	0.9
	Threats Against the President	7	1.5	0.6	---
	Civil Contempt	6	1.3	----	0.2
	Robbery	5	1.0	7.3	0.9
	Extortion	4	1.0	0.6	0.2
	Assault	4	1.0	2.3	---
	Murder	4	1.0	2.2	0.9
	Interstate Flight	2	.5	0.6	---
	Income Tax	2	.5	1.1	1.4
	Other	60	12.6		
	Total	460			

A 1895

X. Detainer

	<u>Number of Inmates</u>	<u>Percents for Quarters Shown</u>		
		<u>3rd</u>	<u>2nd</u>	<u>1st</u>
Yes	36	21.00	17.2	34.4
No or Ignored	<u>322</u>	79.00	82.8	65.7
Total	403			

* 52 inmates did not respond

LEGAL STATUS

A 1895

As in the June study, inmates awaiting trial were the most numerous legal status group at the NYMCC.

XI. Reason at MCC	<u>Number of Inmates</u>	<u>Percents for Quarters Shown</u>		
		<u>3rd</u>	<u>2nd</u>	<u>1st</u>
Sentenced	99	21.9	15.6	---
Writs	66	14.7	9.4	---
In route	53	12.9	16.1	---
Serving Designated Time at MCC	49	10.9	8.9	21.6
Immigration	17	3.9	0.6	0.7
Study Case	9	1.9	2.8	1.9
Pre-sentence	150	33.4	26.6	33.6
Parole Violator	<u>3</u>	.3	---	---
Total	451			

* 9 inmates did not respond

As in June, High School Equivalency courses are the type of education desired by the greatest percentage of inmates, with an increasing interest being shown in college courses.

Gym and General Sports continue to be the most popular form of recreation with basketball ranking second.

XII. Educational Training Desired

	<u>Number of Inmates</u>	<u>Percents for Quarters Shown:</u>		
		<u>3rd</u>	<u>2nd</u>	<u>1st</u>
High School Equivalency (GED)	70	30.4	16.1	28.0
College Courses	51	22.1	21.7	13.4
Language and ESL	44	19.1	7.2	6.4
Vocational (Trade)	25	10.9	12.8	21.7
Art	19	3.3	1.1	3.2
Technical	12	5.2	---	19.9
Music	5	2.1	1.1	0.6
Photography	<u>4</u>	1.9	---	---
Total	230			

* 230 Inmates did not respond

A 1898

XIII. Favorite Recreation

	Number of Inmates	Percents for Quarters Shown		
		3rd	2nd	1st
Gym and General Sports	149	36.6	35.3	39.6
Basketball	45	11.3	6.1	7.3
Baseball	23	7.4	---	---
Reading	23	7.4	6.1	3.3
Swimming	22	5.3	---	3.3
Music	20	5.2	2.9	4.5
Handball	15	3.9	---	2.8
Tennis	15	3.9	---	1.6
Playing Cards	14	3.7	2.2	0.4
TV and Movies	10	2.6	1.1	0.8
Pool (Billiards)	10	2.6	---	---
Chess	10	2.6	---	---
Martial Arts	3	2.0	---	2.4
Art	7	1.9	4.4	0.8
Other	10	2.6	---	---
Total	382			

* 72 inmates did not respond

A 1899

Pre-incarceration Salaries

The median salary of \$175.00, while considerably above minimum wage, is still quite low for a group which has an average age of 32.7 years. The reported mean is not so compelling a figure as the median because, in this case, the few high salaries have biased the mean upwardly (Table XIV).

XIV. Pre-incarceration Salaries

	<u>Number of Inmates</u>	<u>Percents for Quarters Shown</u>		
		<u>3rd</u>	<u>2nd</u>	<u>1st</u>
100 or less per week	54	17.3	15.3	11.9
101-300	204	65.1	71.4	74.1
301-500	37	11.3	10.2	9.4
501-700	5	1.6	1.0	1.4
701-900	5	1.6	2.0	1.7
901-1100	5	1.6	0.0	0.7
1100 and over	<u>3</u>	1.0	1.0	0.7
Total	313			
Median Salary	\$175.00			
Mean Salary	\$237.00			

The inmates seem to be coming from an increasingly more poorly paid group, with more coming from the \$100-or-less preincarceration salary group, and many less from the \$101 - \$300 a week group.

Pre-incarceration Employment

The 31% level of unemployment prior to incarceration was four times the national average and three times the average for New York State, and represents a significant rise over the previous quarters. It would be interesting to sort this topic by race to see to what extent unemployed Black men contribute to this statistic.

XV. Employment Before Arrest

	Number of Inmates	Percents for Quarters Shown		
		<u>3rd</u>	<u>2nd</u>	<u>1st</u>
Full time	267	59.3	53.8	57.2
Part Time	23	5.0	2.2	7.1
Unemployed	141	31.4	26.6	28.0
Welfare	<u>19</u>	4.3	7.2	1.7
Total	450			

*10 inmates did not respond

As in the June study, family problems were those experienced most often by inmates, while incarcerated. These were the findings for the last two quarters, also. The persistence of this statistic points to the need for more and better outside services to help alleviate pressures on the family caused by the incarceration.

XVI. Most Important Current Problem

	Number of Inmates	<u>Percents For Quarters Shown</u>		
		<u>3rd</u>	<u>2nd</u>	<u>1st</u>
Family	114	25.3	32.3	18.4
Finance	84	13.7	13.9	23.8
Drugs and Alcohol	51	11.3	8.9	5.6
Health	46	10.2	7.2	7.2
Employment	43	9.6	14.4	13.6
Emotional Problems	36	8.0	7.3	---
Education	17	3.8	3.3	4.6
Housing	8	1.7	0.6	4.5
None	<u>51</u>	11.3	15.6	13.7
Total	450			

*10 inmates did not respond.

During incarceration at the MCC, over 50% of the inmates responded that they were either depressed, nervous or confused. Conversely, 25% of the inmates responded that they felt well-adjusted.

In terms of treatment for emotional problems, 41% of the inmates had undergone counseling, in the past, and 25% requested counseling at the MCC. Group therapy generated an interest in 39% of the inmates. See Tables XVII, XVIII, XIX, and XX.

A 1902

XVII. Emotional Reaction to Present Situation

	<u>Number of Inmates</u>	<u>Percent</u>
Depressed	134	29.5
Content	110	24.2
Nervous	59	13.0
Confused	53	11.7
Angry	34	7.5
Withdrawn	23	5.0
Hostile	9	2.0
Badly Confused	9	2.0
Suicidal Thoughts	4	.9
Assaultive Thoughts	3	.6
None	<u>16</u>	3.7
Total	454	

* 6 inmates did not respond

The Inmate and Psychotherapy

An amazingly large number of inmates had some sort of psychotherapeutic experience prior to incarceration at the NYMCC. 41.4%, nearly half, had either inpatient or outpatient care (Table XVII).

When asked if they were interested in professional counseling, only 24.7% said "yes" (Table XVIII). However, 33.7% said they would be interested in group therapy (Table XX). Perhaps the idea of group participation carried less stigma or perhaps the way the question was asked made the idea of group participation less threatening.

Over 1/3, 34.4% of the inmates queried admitted to having used prohibited drugs - (Table XXI).

Inmate Profile Summary

The typical New York MCC inmate is a 32.7 year old, either Black or White male, born in New York and of the Catholic faith. He is legally married, has an 11th grade education and was incarcerated for a narcotics offense, with no other pending charges (detainers). Because he only has an 11th grade education, he would like to prepare for the GED high school equivalency test which could lead to a certificate which is equivalent to a high school diploma. Prior to incarceration, he made between \$101 and \$300 per week at full-time employment.

While he is incarcerated, he feels generally depressed and perceives his most important problem to be his family situation, with heavy financial overtones. He is inclined to be at the MCC until he is sentenced, a period of 26 days, and then he will be moved to some other institution.

Compared with the profile for the last quarter, our present inmate is more likely to be Black or Hispanic and he is less well educated.

A 1904

XVIII. Desires Professional Counseling

	<u>Number of Inmates</u>	<u>Percent</u> (%)		
Yes	90	24.7	47.3	25.6
No	<u>274</u>	75.3	52.7	74.4
Total	364			

* 96 inmates did not respond

XIX. Received Professional Counseling in the Past

<u>Type of Counseling</u>	<u>Number of Inmates</u>	<u>Percent</u>
In-Hospital	57	13.9
Therapy Outside Hospital	112	27.5
None	<u>239</u>	58.6
Total	403	

" 52 inmates did not respond

XX. Interested in Group

	<u>Number of Inmates</u>	<u>Percent</u>
Yes	162	38.7
No	<u>257</u>	61.3
Total	419	

* 41 inmates did not respond

XXI. Used Drugs

	<u>Number of Inmates</u>	<u>Percent</u> (%)		
Yes	156	34.4	41	78.1
No	<u>293</u>	65.6	59	71.9
Total	454			

* 6 inmates did not respond

A 1905

MANAGEMENT PLANNING

DATA

A 1906

Inmate Population Research

The average inmate population for the time period July 6 through September 30 was 536. The high for the period was 563, occurring on July 3, and a low of 475 was reached on August 19.

The current average population of 536 is forty higher than the average in the previous quarter. (See Figure 1 in Appendix)

Length of Confinement of Inmates at NY MCC Table 22

The data in Table 22 were gathered as a distinct 25% sample of all the inmates who were admitted and subsequently discharged between August 1, 1975, the opening of the MCC, and August 19, 1976. This sample consisted of 1443 records.

Table 22
LENGTH OF CONFINEMENT - N.Y. M.C.C.
CENTRAL TENDENCIES

	<u>No. of Inmates</u>	<u>Total Man Days</u>	<u>Mean</u>	<u>Median</u>	<u>Mode</u>	<u>Range</u>
Presentence to Sentenced	236	10662	46.00	19.00	7	1-200
Pre-Sentenced	173	3880	22.43	10.15	4	3-266
Sentenced	165	4046	21.86	9.53	8	1-277
Enroute	237	1403	5.92	5.40	1	1-135
Immigration	26	1222	43.64	13.00	1	1-126
State Writ	107	3602	33.66	20.25	5	1-316
Fed Writ	105	5136	49.87	32.25	33	1-257
Contempt	8	515	64.30	42.00	2	1-196
Escape	14	306	21.86	10.00	2	2-92
Study	44	1251	28.43	14.50	7	2-156
Designated	25*	2750	110.00	79.00	-	9-354
Safekeeper	214	238	1.11	1.19	1	1-2
Prob/Par Viol.	58	2189	37.73	25.75	-	1-205
Weekender	9	408	45.33	59.62	60	16-80
TOTALS	1442	37,810	26.20	24.41 Average Median		

* This no. is small because we are dealing with a "discharged" population. Actually about 16% of the MCC is "designated".

TABLE 22

30

A 1907

A 1908

Analysis of Table 22

Length of Confinement at WCC 8/19/76 Study of a Discharged Population

1. 69.9% of the inmates are confined for 90 days or less and 92.9% are confined for 90 days or less. There is no question that this is a short-term institution.
2. Regarding legal status, the most numerous group is the enroute (holdover) group which is awaiting movement to another institution (16.4%).
3. Inmates committed prior to sentence and discharged after sentence comprise our next largest group (16.35%).
4. The third largest confinement group are safekeepers (14.6%).

The implications of these figures are that the Federal practice of moving prisoners between institutions combined with increased court and F.B.I. (or other Federal agency) activity is creating the bulk of our population pressures. On top of this writ activity provides significantly another 14.7% of our population. Therefore, a reduction in both writs by courts and DOJ inter-institution movement would together reduce the jail workload by 31%.

A 1909

Length of Confinement at MCC

A major research effort was conducted in order to determine the average length of confinement for inmates in 14 legal status categories. A sample of 1443 inmates was used covering a time range of 8/1/75 to 8/19/76 (Table 22).

Findings showed that the average length of stay for all inmates at MCC was 26 days. The average of the medians for each category was 24 days.

The two categories with the longest average length of confinement at MCC were the designated inmates (110 days) and the Federal writ cases (50 days). Those with the shortest lengths of stay were safekeepers (1 day) and enroute (1 day). See Table 1 in appendix for complete results).

MCC Admissions Research

A study was done to determine those hours of the day in which the greatest number of inmates are committed at the MCC. A sample of 66 inmates, committed between October 1 and October 26, 1976 was used.

The findings showed that the greatest percentage of inmates were committed between the hours of 7 AM and 11 AM. The period 7AM-9AM had the heaviest commitment traffic, and the period 1 AM to 6 AM had the lightest traffic (See Table 23).

TABLE 23

A 1919

NYMCC-TIME OF DAY OF ADMISSIONS (Commitments)

Date	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	
10/01/76										1															
02															1										
03																									
04									1				1												
05								1						1											
06								2													4				
07								2					1	1					1	1					
08								2						2					1						
09																									
10										1	1			1	1										
11									1	1															
12							2	1																	
13							1									1									
14					1		3		1		1											1			
15																							1	1	
16										2				1				1							
17																									
18									1					1	1										
19							2											1							
20							1				1													2	
21										1	1				1			1							
22		1																				1			
23											1														
24																									
25																									
26							1						1												
	1				1		(17)	1	3	7	5		3	7	4	1		3	2	1	4	2	1	3	66

Note: These figures represent the times of admission (commitment) for inmates entering the NYMCC between and including Oct. 1, 1976 and Oct. 26, 1976. Times were available for only 66 of the total number of commitments for that period. For further information on numbers of inmates committed daily, see Table A.

A 1911

NYHCC Inmate Traffic

A special study was performed over the months of September and October 1976 to determine the proportion of inmates committed from the streets (i.e., arrested by Federal agents, police, etc.) and those committed from other institutions. Tables 24 and 25, below present these data.

NYHCC Commitments

Table 24

<u>Committed</u> <u>From the Street per day</u>	<u>Committed</u> <u>From Institution per day</u>	<u>Totals</u>
$\frac{319 \text{ males}}{56 \text{ days}} = 5.7$	$\frac{728 \text{ males}}{56 \text{ days}} = 13.0$	$\frac{1047}{56} = 18.7$
$\frac{72 \text{ females}}{56 \text{ days}} = 1.3$	$\frac{6 \text{ females}}{56 \text{ days}} = 0.1$	$\frac{78}{56} = 1.4$
Totals $\frac{391 \text{ all persons}}{56 \text{ days}} = 7.0$	$\frac{734 \text{ all persons}}{56 \text{ days}} = 13.1$	$\frac{1125}{56} = 20.1$

A 1912

NYMCC Discharges

Table 25

<u>Discharges per day</u>		<u>Totals</u>
<u>291 males</u> 56 days	=	<u>17.7 males</u> day
<u>32 females</u> 56 days	=	<u>1.5 females</u> day
Totals	<u>1673</u> 56	= <u>19.2 inmates discharged</u> day

Clearly most males are committed to the NYMCC from the institutions while most females are committed from the streets. What's most important, however, are the figures for commitment and discharge. On the average, 20.1 inmates are committed every day while only 19.2 are discharged. The total traffic, not including court business, average 39.3 inmates processed per day. The court traffic figure would increase the total traffic by at least 50%.

Inmate Traffic Research

The Office of Research has continued to monitor inmate court traffic, in connection with the class action litigation.

Findings for the period July 1, 1976 through September 30, 1976 indicate that the average number of inmates going to court per day was 20. The Southern District had the heaviest traffic with a daily average of 13 inmates, while the Eastern District and the District of New Jersey followed with daily averages of 10 and 5 respectively.

Court traffic hit a high of 52 inmates on September 29, while it reached a low point of 10 on August 2, 1976.

A 1913
Incident Report Research

A study was done to determine the breakdown of incident reports by shifts.

The time range for the study was 5/1/76 through 8/5/76.

The results of the study were as follows:

<u>Shift</u>	<u>Number of Incident Reports</u>	<u>Percent of Total Incident Reports</u>
I 3 AM to 4 PM	96	53.2%
II 4 PM to 12 AM	64	34.8%
III 12 AM to 3 AM	<u>22</u>	12.0%
Total	184	

The highest percentage of incident reports are written during the 3-4 day shift, when the inmates are most active and more staff members are present to write up the inmates. The lowest percentage of incident reports occur during the 12-3 night shift, when the inmates tend to be asleep and fewer staff members are present.

A further study was done to categorize the incident reports. The time range for the study was 5/1/76 through 8/31/76.

The results of the study were as follows:

<u>Type of Incident</u>	<u>Number</u>	<u>Percent of Total</u>
Refusal to obey order	49	20.3
Fighting	39	16.1
Possession of Contraband	26	10.7
Possession of narcotics	15	6.1
Insolence	11	4.5
Other	<u>102</u>	42.3
Total	242	

A 1914

Visitor Research

A study was done to ascertain the average number of people visiting the MCC each day.

The average visiting figure for the month of August was 160 per day. Unit 11 received the greatest number of visitors, while Unit 5 received the second highest number of visits. (See Table 26)

Table 26

Average Daily Visits

July 1976

<u>Floor</u>	<u>Adults</u>	<u>Children</u>	<u>Attorneys</u>	<u>Composite Average</u>
5	37	4	2	43
7	29	4	1	34
9	26	4	1	31
11	44	7	1	<u>52</u>
Total				160

By comparison with other months, April saw an average of 132.5 visitors per day and May saw 174.3 per day. If one considers a single month, the MCC averages 4779 visitors in one month, or 154 visitors per day.

ES
A 1915

EDUCATIONAL DATA

English As A Second Language (ESL) was the course offered most frequently during July and August. Basic Education had the highest average class attendance during the same two months. The Fine Art Class has doubled its average attendance figures from ten students in the last quarter to 20 students in the current quarter (Figure 1).

Of the nine inmates who took the May GED examination, eight received their certificates.

No.
class

50

45

40

35

30

25

20

15

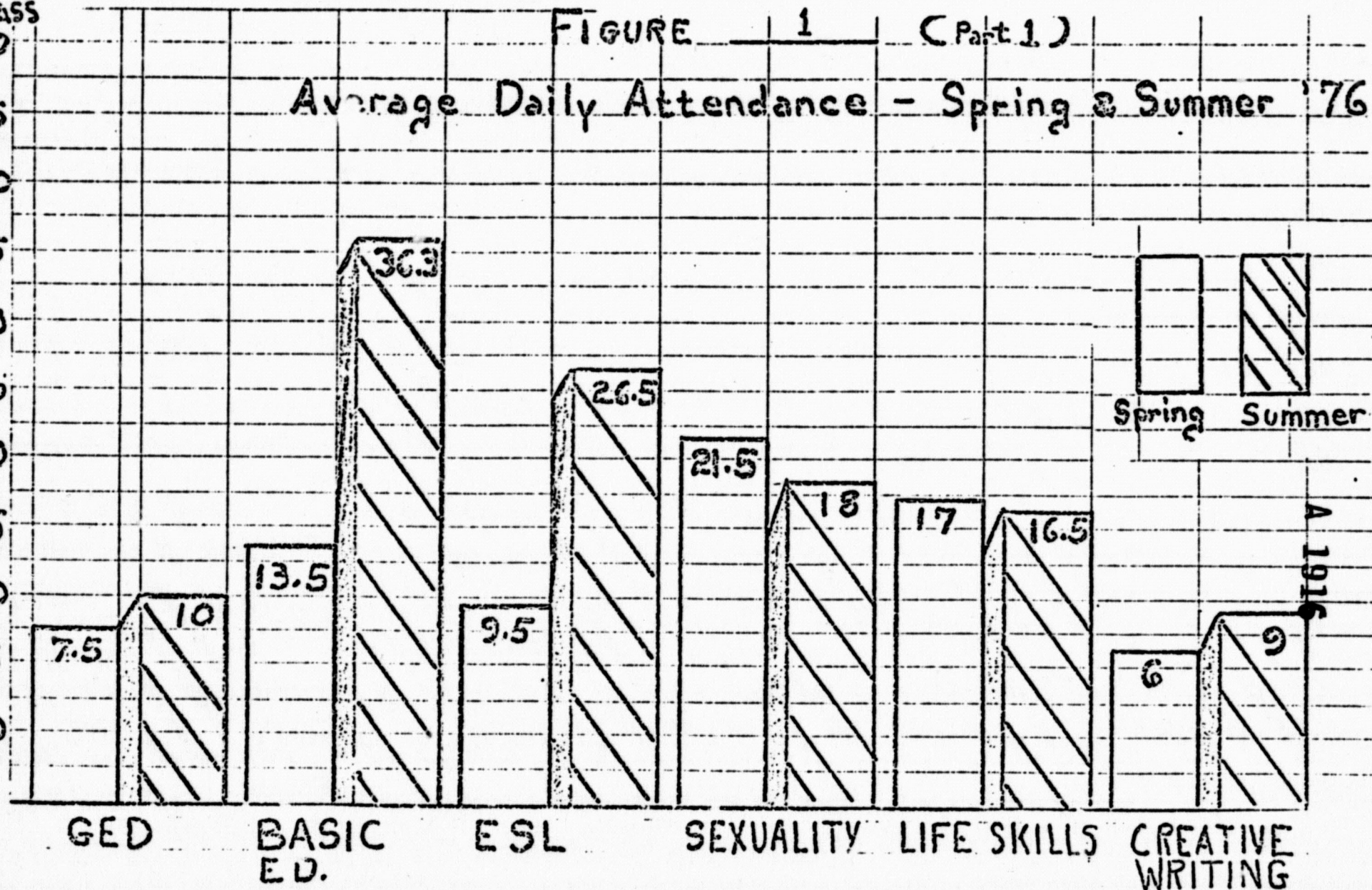
10

5

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FIGURE 1 (Part 1)

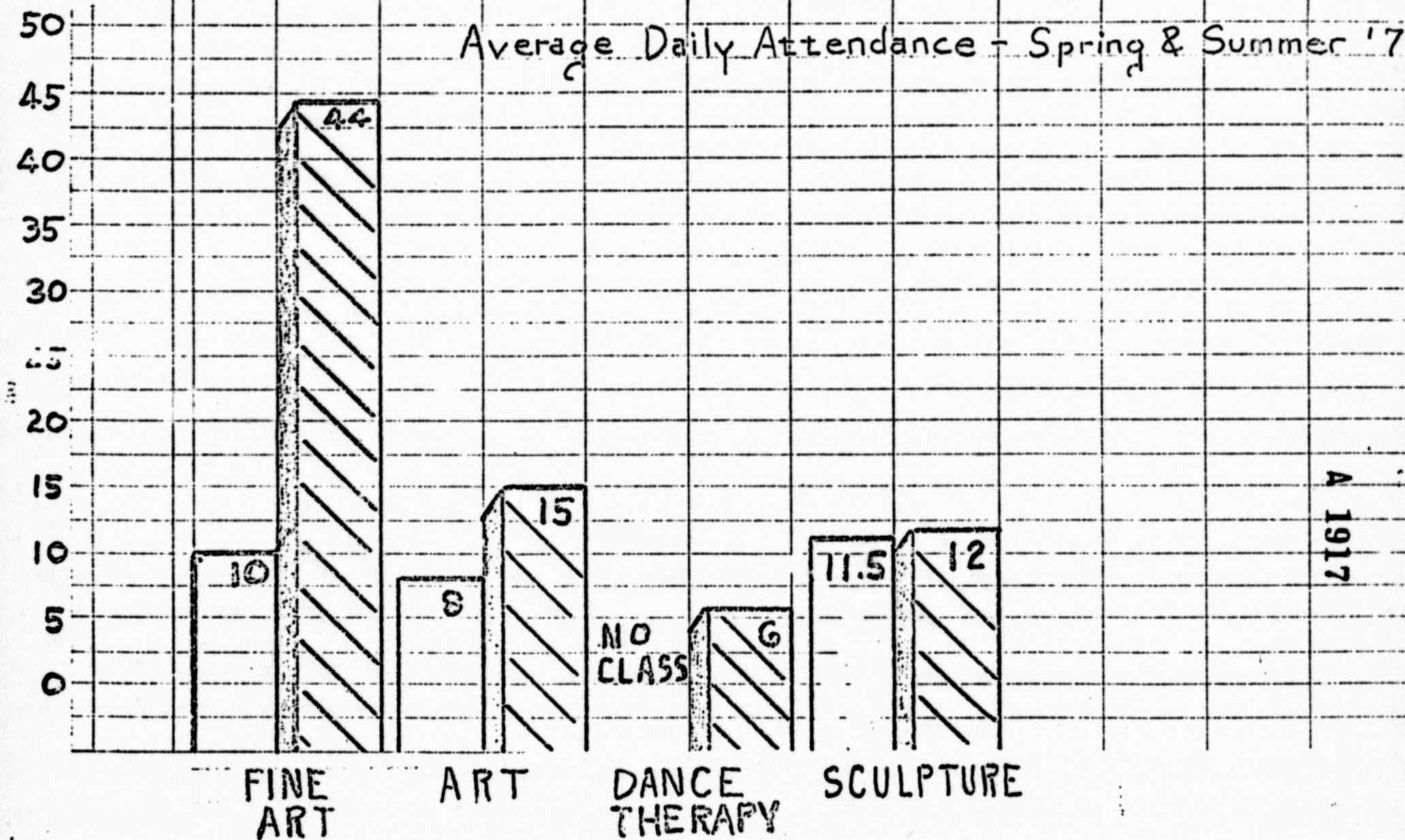
Average Daily Attendance - Spring & Summer '76



No.
n Class

FIGURE 1 (Part 2)

Average Daily Attendance - Spring & Summer '7



A 1918

MEDICAL DATA

Inmate dental visits increased steadily from 129 in July to 189 in September. The fact that the dental officer was able to increase patient intake can be attributed to the added chairside assistance of an inmate dental technician.

Medical sick call visits totalled 4160 for the three months of the quarter. This shows a slight decrease from the 4243 of the previous quarter.

Psychiatric visits totalled 296 for the quarter.

STAFF SICK LEAVE

Sick leave reached a high for the quarter during the pay period ending August 28, when the staff averaged 2.6 hours per man. The low for the quarter was .9 hours per man, occurring in the pay period ending July 17. The average staff sick leave for the quarter was 1.6 hours per man.

It is interesting to note that sick leave figures were lowest at the beginning of each month and highest at the end of each month. See Figure 3, in the Appendix.

A 1919

RESEARCH STATUS REPORT

A 1920

STATUS REPORT

Since the last quarter, research has added several functions to its routine which have changed the emphasis of its mission, significantly. At the onset of the NY MCC, the Office of Research was designed to supply research plans, experimental designs and hypotheses to help answer questions raised by the Executive Staff and Department Heads or academia. With the advent of the class-action suit (Wolfish et al vs. U.S.) the Office of Research and the executive Staff saw the need for an internal auditing system which would guarantee the timely acquisition and storage of management information. This information, after the passing of a year, has proven useful not only to the U.S. Attorneys fighting the suit, but also to the MCC Executive Staff.

Even though the energies of the office have been focused on the "bread and butter" research demands, the interest in academic research remains. The MCC Office of Research has entered into an agreement with Fordham University for the Spring, 1977 semester to employ its students as a part of their graduate internship program. Although the students will not be remunerated for their efforts by the MCC, the MCC will still issue their assignments in conjunction with Fordham University and Dr. Martin. We anticipate many of the theoretical issues of interest to the field of criminal justice will be addressed by these students with the assistance of the Office of Research.

Future plans of the Office of Research include the integration of its data collection forms with the new BOP Sentry System. As an initial step in this direction Research has already prepared a computerized format for its inmate profile data.

During the past quarter, the Office of Research has accepted responsibilities in areas which are not traditionally associated with its function, e.g., the institutional disciplinary committee, data coordination with the U.S. Attorneys' Office, and responsibility in the area of budget planning. In the next quarter, we plan to solidify these newly acquired functions and to integrate more thoroughly with Central Office Research and Data Processing.

A 1921

The following is a listing of Research Office objectives for the next quarter:

<u>Old Objectives</u>	<u>In Progress</u>	<u>Date Completed</u>
Develop computerized printouts of Profile Data	x	
Develop computerized printouts of Management Data	x	
Develop hypotheses in criminology	x	
Develop system for inmate data collection		Aug. '76
Develop system for collecting legal status information on inmates.		Oct. '76
Develop system for collecting unit purity information		Oct. '76
Develop system for collecting and storing visitor request forms		Oct. '76
Obtain permission from GSA to purchase computer services		July '76
Provide guidance on legal suit, Wolfish vs. U.S.	x	
<u>New Objectives</u>		<u>Date Started</u>
Start data gathering on suicide prevention research		Not yet begun
Prepare for integration with SENTRY System		Not yet begun
Get information about recidivism on discharged, once designated MCC inmates	x	
Begin academic research with students from local universities	x	

157
A 1922

APPENDIX

file
DU.
file

35

A 1923

FIGURE 2

DAILY POPULATION RECORD
NY MCC

DAILY POPULATION RECORD - JULY 1976

Daily
Popu-
lation

600
580
560
540
520
500
480
460
440
420
400

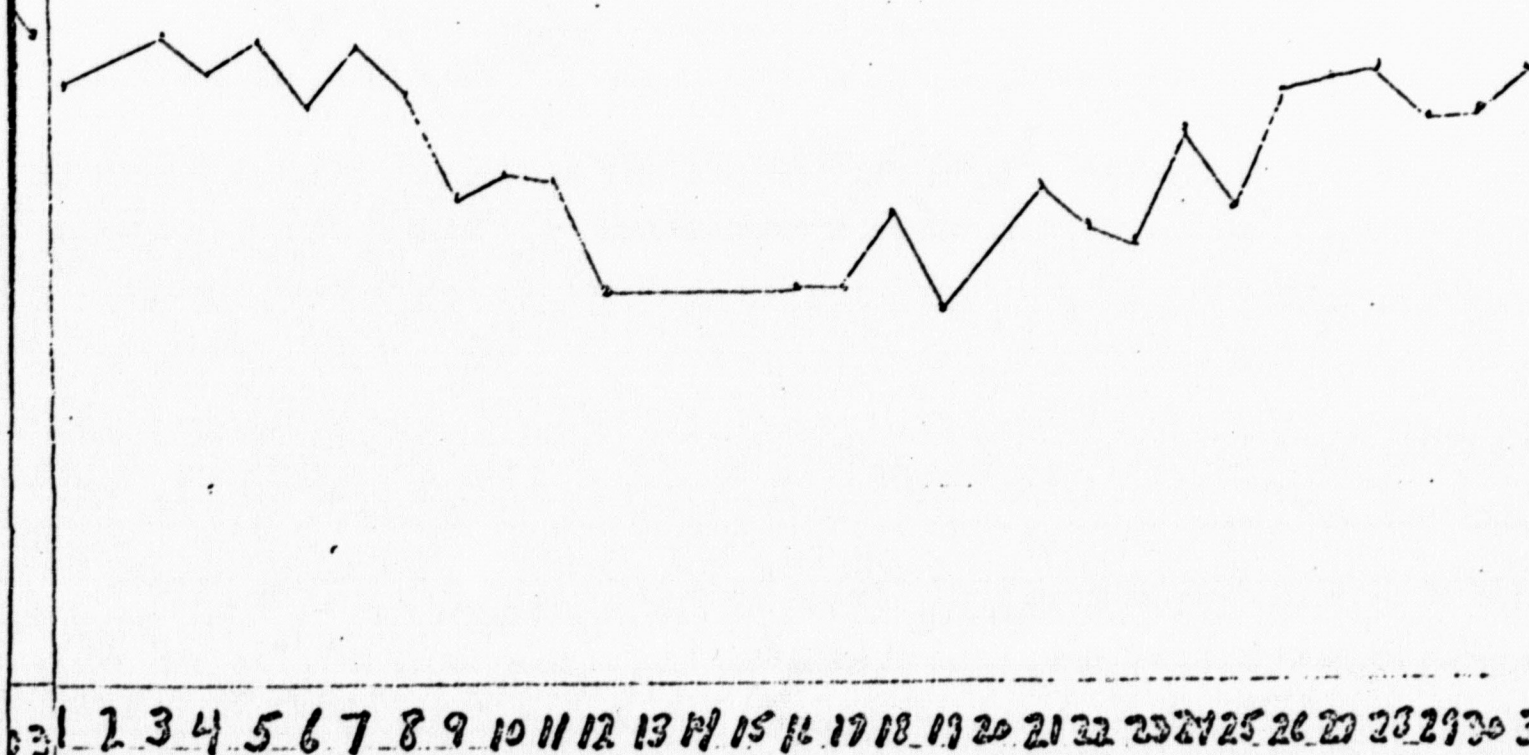


1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

A 1924

FIGURE 1

Daily Population Record - AUG. 1976

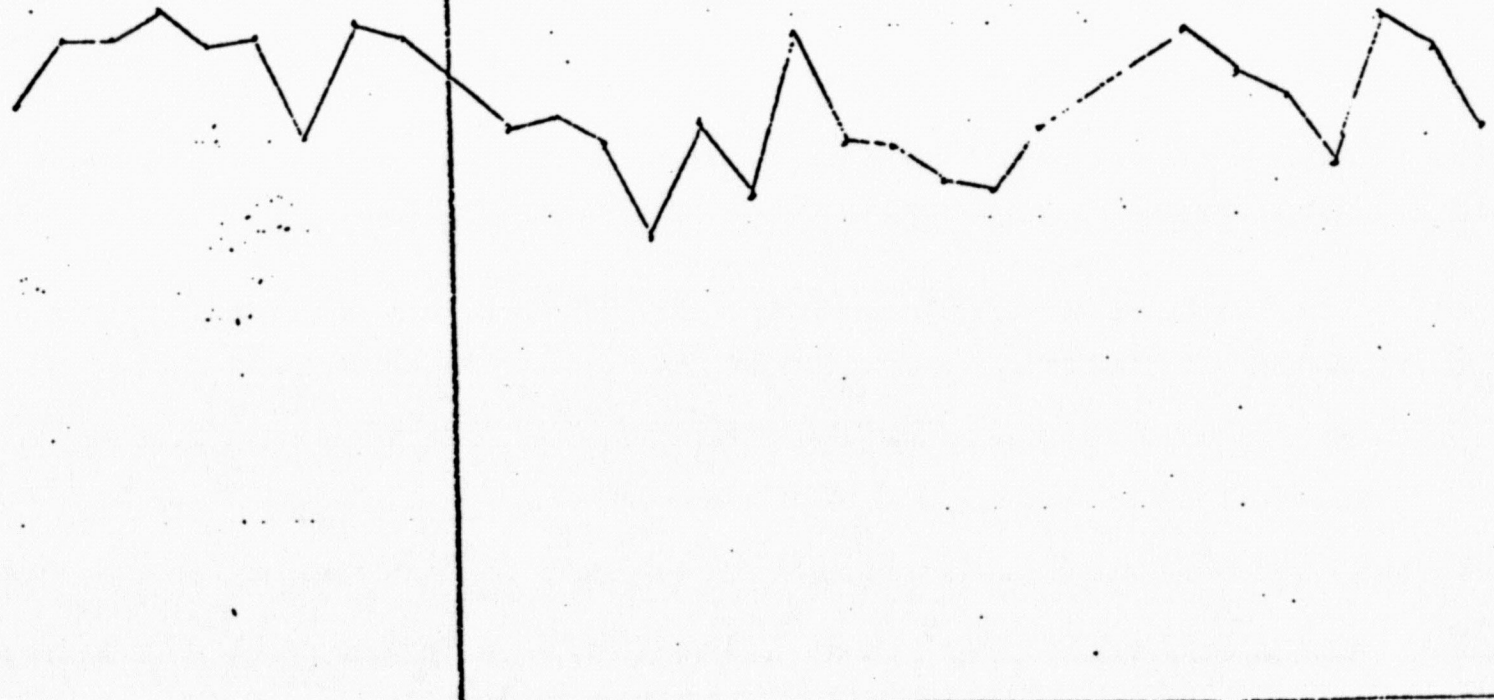


16 DAILY POPULATION RECORD-SEPT 1976

600
580
560
Daily 540
Popu- 520
lation 500
480
460
440
420
400

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30

A 1926



A 1927

FIGURE 3
STAFF SICK LEAVE
7/3/76 to 9/25/76

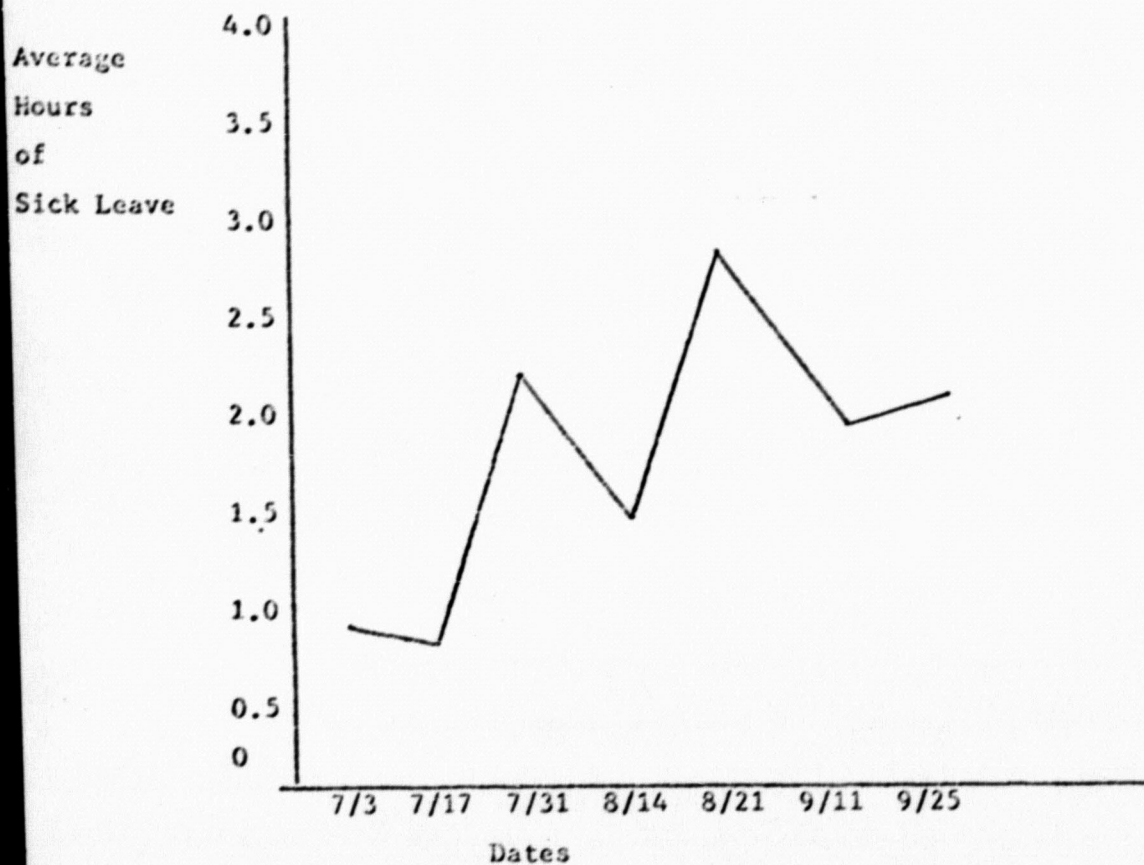


EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Part 167

ORIGINAL

A 1928

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FPI-MI-8-26-76-25M-5316

-----X
: UNITED STATES EX REL. LOUIS
: WOLFISH,
: Petitioner
: vs.
: No. 75 Civil 6000 NEF
: EDWARD LEVI, ET AL.,
: Respondents.
: -----X

Washington, D. C.

Tuesday, March 22, 1977

Deposition of

DONALD CONWAY

a witness, called for examination by counsel for the
petitioner, pursuant to agreement, taken in the offices of
The Federal Prison Project, Suite 1031, 1346 Connecticut
Avenue, Northwest, Washington, D. C., beginning at 2:15
o'clock p.m., before Linda M. Farmer, a Notary Public in and
for the District of Columbia, when were present on behalf of
the respective parties:

Reynolds Reporting Associates, Inc.

OFFICIAL REPORTERS
1028 Connecticut Ave. N.W., Suite 1100
Washington, D.C. 20036
Phones: (202) 833-3598
833-3599

For the Petitioner:

MICHAEL B. MUSCHLIN, ESQ.
Federal Defender's Office
The Legal Aid Society
Room 509
U. S. Courthouse
New York, New York 10007----

For the Respondents:

LOUIS G. CORSI, ESQ.
Assistant U. S. Attorney
Southern District of New York
1 St. Andrews Plaza
New York, New York 10007

C O N T E N T S

EXAMINATION BY COUNSEL FOR

<u>WITNESS:</u>	<u>PETITIONER</u> <u>(Mr. Muschlin)</u>	<u>RESPONDENTS</u> <u>(Mr. Corsi)</u>
DONALD CONWAY	3, 83, 88	50, 85, 88

E X H I B I T S

<u>Marked for Identification and Retained:</u>	<u>Page</u>
Conway Exhibit No. 1 - curriculum vitae	3
Conway Exhibit No. 2 - a letter	15
Conway Exhibit No. 3 - a study report	24
Conway Exhibit No. 4 - a study report	26

MR. MUSCHLIN: Would you mark th please.

(The curriculum vitae of the witness was marked Conway Exhibit No. 1 for identification and was retained by counsel.)

MR. MUSCHLIN: This is a deposition that is being taken by consent of both petitioner and respondents in lieu of the testimony of Mr. Conway in court. There is an agreement reached in open court that this deposition would be taken as if it were in court, when it was learned that Mr. Conway would be unavailable to testify in New York.

We have agreed that the deposition will proceed as if it were in court, that all objections would be noted and would be preserved for ruling by the Court.

Is that agreeable?

MR. CORSI: That is a correct statement of our agreement.

Thereupon

DONALD CONWAY

the witness, was called for examination by counsel for the petitioner and, after having been sworn by the notary, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR THE PETITIONER

BY MR. MUSCHLIN:

2 Mr. Conway, what is your occupation?

A I am an architect, research architect.

Q Could you describe your training and experience in the field of architecture?

A Yes. I am a graduate of the University of Florida in architecture. I am a licensed architect in the State of Illinois. My professional career has been primarily in architectural research, both in building technology and hardware research, and most recently, for the past 10 years, in human-environmental psychology research; that is, the psychological, sociological effect of architecture on individual persons and social groups.

Most recently, my employment, up until January of this year, was as Director of Research for the Institute of American Architects in D. C.

Q Could you give me your employment prior to that, please.

A Prior to the Institute of American Architects, I was Director of Environmental Research for the United States Gypsum Company in Chicago. I was a Project engineer for the Ceco Corporation, also located in Chicago. I was architectural consultant for the historic restoration of the City of St. Augustine. That is my professional work history.

Q Can you describe what your duties were at the American Institute of Architects?

A As Director of Research Programs for AIA I had a number of very broad kinds of activities, primarily falling into the area of fostering architectural research; that is, research done by and for the architecture profession. This dealt with a number of policy issues, such as directing the research programs of a number of Federal agencies. In that respect I served as both advisory function to several agencies and as an advocate on behalf of the architectural profession, dealing with a number of the Federal agencies, like Department of Housing and Urban Development, LEAA, the Department of Justice, Department of Health, Education and Welfare, U. S. Department of State, and so on.

Another aspect that I think I should bring out about my professional activities was also that of serving as an information resource for the American Institute of Architects, and, through them, for the architectural profession. In that capacity my function was to collect current research information, establish an information retrieval system which comprised some 20,000 documents and abstracts of ongoing research.

My mission there was to understand the literature and then

to disseminate it back to the architectural profession, given the resources of the Institute.

Q What is your current position, or what positions have you held since you left the American Institute of Architects?

A I have been in private practice, committed totally to architectural research. I currently am conducting research for the General Services Administration for the American Institute of Mental Health. In addition, I am director of a program at Antioch College, Columbia, Maryland, campus, a program entitled Architectural Analysis and Social Planning.

I am teaching at the environmental psychology program at New York City College.

Q Have you accepted a new position for April of this year?

A Yes.

Q What is that?

A As of about the first of April of this year I will be employed by UNESCO and the International Union of Architects to do a feasibility study for the establishment of an international information system for the architectural profession. It is a worldwide task.

Q Where will you be based?

A In Paris, France.

Q Have you held any faculty appointments other than the ones you just mentioned at Antioch and City College?

A Yes, I have taught in the Department of Architecture at the University of Maryland, Trinity College here in Washington, D. C. I have lectured at a great number of universities around the country. I was a Loeb Fellow and faculty member at Harvard University, Distinguished Lecturer at Louisiana State University, guest lecturer overseas in a number of foreign countries.

Q Have you participated in any professional symposiums or conferences in the field of architecture and human-environment relations?

A Yes. In 1972, I believe was the year, I served on an ad hoc advisory committee for the Law Enforcement Administration, dealing with their correctional research programs, both adult corrections and juvenile corrections.

As Chairman of the Board of Directors of the Environmental Research Association, I have attended numerous human-environment research conferences around the country.

And as a member of the Board of Directors of the United States National Committee for the International Building Research

Council, I have attended international building research conferences in Hungary, in England and in Poland.

Q Have you served as a consultant to any governmental organizations in the field of architecture?

A Yes, both as consultant and as project director for contract research for government agencies; as a consultant, as I mentioned earlier, for the Department of Justice, LEAA.

Q Was that in the field of corrections and prison design?

A Yes. That was about 18 months as part of an advisory group overseeing their research programs in the field of corrections. In addition to that, I have served in an advisory capacity to the National Bureau of Standards, to the Office of Policy Development, and research for the Department of Housing and Urban Development. I think those are the principal ones that come to mind.

Q Are you a member of any professional organizations?

A Yes, a member of the American Institute of Architects, a corporate member there. Still on the Board of Directors of the Environmental Design Research Association. I am a member of the Association for the Study of Man-Environment Relations. I am still a member of the International Council for Building

A 1936

focuses its attention on psychology and social sciences of the built-in environment on human functioning.

Q Have you ever been qualified before as an expert in the field of architecture and human-environment relations?

A Yes, in two instances; one in a class action here in Washington, D. C., and the second in the Queens House of Detention Center in New York City.

MR. MUSCHLIN: At this time, based on Mr. Conway's training and experience, I request he be qualified as an expert in human-environment relations.

MR. CORSI: I am going to object to such qualification on the grounds that my understanding of Mr. Conway's resume is that he does not hold a degree in psychology. And his testimony to this point has indicated that human-environment relations focuses on the psychological and social consequences of man-made environments on an individual. Based upon his professional history which has been brought out on direct examination and my review of his curriculum, I am going to object to expert testimony on this phase of human-environment relations. I don't think that Mr. Conway has the appropriate qualifications.

MR. MUSCHLIN: I take it there is no objection to his

A 1937

scientists. They also evidenced greater withdrawal, more time alone, less helping kinds of behaviors.

Q Mr. Conway, having seen the design of the MCC, and assuming the populations that I described are housed there, do you have an opinion one way or the other as to what the predictable consequences of confinement under the functional living unit system that I have described for you would be?

MR. CORSI: Objection, again on the previously stated grounds.

BY MR. MUSCHLIN:

Q For the record, I would like you to assume that what I described earlier were the populations and what I described were the units has been called the functional living unit system.

A Based on the literature that I have reviewed, the prediction, I think, inevitably would be that to put a non-selected, non-carefully screened population, the population that is seen from the NYU studies to be a troubled population, to provide less than meaningful work, to not provide clear peer group affiliation, to reduce the number of options for environmental experiences of the residents, to not provide adequate and self-selected visiting and communications with the outside world, nearness to loved ones -- all of those things,

based on the literature I have read, would lead to an inevitable prediction of problems and stressed individuals who would probably show some of the kinds of syndromes that I mentioned earlier of stress, nervousness, hostility and aggression and so forth.

Q In architecture and human-environment relations, what role does mobility take in the design of a facility?

MR. CORSI: Objection.

THE WITNESS: Mobility serves two functions. The first one, the simplest one, is that it allows a person to get from point A to point B, which is necessary in the normal course of activities to do one's work or whatever. But it also serves a much more important function, which is that it provides a variety of environmental stimulants and a variety of environmental experiences. For example, when we leave this room, I can go out just into the hallway and the lights change, the sounds change, the temperature changes, the number of people that we encounter in a social situation changes. All of those changes constitute an environmental experience. It is mobility that allows one to have a variety of environmental experiences.

This is characterized, for example, in an office situation

where office workers will get up and walk away from their desk, simply walk around through the building to get a variety of environmental experiences. So it appears in the literature of human-environment relations that the need for variety is a recognized need, and the provision of it is recognized as an important thing that one must provide in the design of facilities.

Q Let me ask you this: What role in the design of a building does creating choices play?

A Well, there is a relationship between choice and a sense of control. A number of studies -- for example, dormitory studies at the University of California, in which it was found the residents of those dormitories voluntarily would leave the dormitory situation primarily because they lacked choice. They lacked choice in opportunity to control the lighting or the temperature in their rooms. They lacked choices in terms of furnishings in their rooms.

The element of choice seems to relate to a sense of control over one's own destiny and what is generally referred to as a sense of potency, the ability to have some control over the things that influence your life, the things that influence your environmental experiences. The choice is what gives you that

THE WITNESS: The second reference that appears to recognize the need for physical recreation and activity is entitled Final Recommendations and Requirements for the Manhattan Metropolitan Correction Center in the Foley Square Courthouse Annex.

This apparently was prepared by Gruz rtners, architects for MCC. It also bears on the front cover the words "U. S. Bureau of Prisons, U. S. Department of Justice, Public Buildings, General Services Administration."

In presenting the functional program requirements for the normal living units on page 21, item four listed physical recreation. The statement is made that this space is conceived of as a small workout gym. It is followed by the sentence, "Younger detainees appreciate the energy dissipating activity of basketball shooting and ping pong."

Those two references from the Bureau of Prisons plus the references from the isolation and confinement literature all would indicate that for people in confined situations physical recreation has both the obvious physical muscle tone beneficial aspects and also appears to have a tension relieving psychological aspect in all the literature.

Q Now, I would like you to assume that the recreational

facilities are the following: The rooftop area which you observed, furnished as you observed it with one basketball court and handball court and a volleyball area, and on each of the functional living units --

MR. CORSI: Mr. Muschlin, I hate to interrupt you, but there is an additional apparatus on the roof, the universal machine.

MR. MUSCHLIN: Right.

BY MR. MUSCHLIN:

Q In addition, on each of the functional living units there is a glassed-in room that you observed that also may be furnished with a universal machine.

Do you have an opinion, assuming those are the recreational facilities, as to whether or not those facilities are adequate to furnish a population such as the MCC --

MR. CORSI: I'm not sure what qualifications Mr. Conway has to respond to that.

MR. MUSCHLIN: As an architect and as one whose profession would call for designing such a facility.

BY MR. MUSCHLIN:

Q Is it true that an architect would, as part of his function, make suggestions as to the components of a facility

to meet the needs that his client may have?

A Certainly I would, and apparently Gruzen & Partners did in the case of MCC.

MR. CORSI: I just want to clarify what the basis of his opinion would be. You are indicating now it is based on his profession as an architect?

MR. MUSCHLIN: That's correct.

MR. CORSI: All right.

THE WITNESS: As an architect, in designing recreational facilities, I would recognize that in addition to the physical benefits, that is, the muscle benefits, the health benefits to recreation -- as an architect I would also recognize that recreation is also in many cases a social experience and that, as such, there appear to be social benefits out of recreational activity.

For example, playing a team sport is not just physically beneficial, but it also provides one a set of social opportunities. The same is true -- well, I say generally that is true. And as an architect, yes, I would consider those elements in designing recreational facilities. And as an architect I would say that the facilities I saw at MCC were not adequate from both those points of view.

Q What about the rooftop area? Do you have an opinion as to whether or not that is an adequate outdoor exercise facility or recreation facility?

A In my opinion, as a recreation facility, I would say no, because of the size of it, for one thing; the nature and character of it, for another. It is on the roof of a building some number of stories above the ground. It is not a grassed playing field where, by and large, outdoor recreations tend to occur in the United States, or at least at ground level. It is surrounded by a high wall, and, if I remember right, it has a screened sort of affair above.

And this combination of small size -- it was not occupied in either case during my visits, but depending on the number of people that were allowed to use it, I can conceive of it as a crowded recreational facility. And in that sense, it does not meet the usual kind of recreational facilities, outdoor recreational facilities that we experience in the United States.

Q What is the importance, if any, of having a facility in a correctional institution for recreation that has benches or grass or trees or shrubbery?

A Again, as an architect and from the literature of

human-environment relations --

MR. CORSI: I am going to object again.

BY MR. MUSCHLIN:

Q Go ahead.

A Based on my knowledge of the literature of human-environment relations, there appear to be two kinds of benefits. One is that some individuals at varying times would choose passive kinds of observation of recreational activities. It is kind of a vicarious socializing situation, what we generally refer to as people-watching. Most of us do it, and we seem to want to do that at various times.

Then the nature of passive recreational activity again is different from those of competitive participatory recreational activities. In one case, the participatory, you are in a competitive situation. You are in a team situation. In the passive recreation we seem to have a need, again from the human-environment relation literature, for a kind of a recharging of one's social batteries, so to speak, where we can get off quietly and get out of the main stream of competitive activities such as in competitive recreation.

So there appears to be a need on the part of the individual for both kinds of recreational activities.

all his design decisions, with the exception of the technological and building codes, are based on the size and characteristics of the population he is given.

Q Assume the MCC was designed for a capacity of 449 inmates, and during the year and a half of its operation it has held populations exceeding that -- at some times 550, at some times over 600 people. Do you have an opinion as to what the effect would be of that population in that space?

A Yes, particularly in the case of MCC where the program given to the architect -- again, I am referring to the Tentative Outline by the Bureau of Prisons where the functional unit concept is explained and in the later document prepared by Gruzen & Partners -- is accepted and picked up, there would appear to be an extreme violation of principles behind a functional unit concept; that is, in both these documents the functional unit has a series of prerequisites that must be made if it is to operate as a functional living unit the way it is to operate. Only one of those suppositions is a small population.

The number that is most often referred to is a population of 50. Without adherence to that population and a number of other parameters, it would appear that the notion of the

functional living unit is totally violated.

Now, if the architect -- in this case, Gruzen & Partners -- were making their design decisions based on a functional unit designed for 50 people, that, I would say when that number is exceeded, all his assumptions on the functional behavior and social premises he has made would be totally violated.

Q Are there any other consequences, as an architect, for housing more than the number of people which the facility was designed for?

A Well, of course, as an architect you face the ethical problems of crowding. And again the architects have, by nature of their profession, recognized the human consequences of their design decisions. When, either by management or by design decisions, the human consequences of their design decisions are violated, architects face an internal ethical dilemma, that they designed a facility to do certain things, to promote certain kinds of, hopefully, beneficial situations and behaviors. When those conditions, those ground rules, are violated, the architect is faced with the ethical dilemma of his design being used in a way his design was not intended at all.

Often then he is past the design stage, so the decision

is out of his control. Yet he is faced with the balance of his professional career with the end result of his design, having often undesirable, unintended outcomes.

Q I would like you to assume that on occasion individuals that have been housed in the MCC have not been assigned to a dormitory room or a private room on one of the functional living units but have been given a cot or other sleeping facilities and placed on the balconies of the units that you saw at the MCC. Do you have an opinion as to whether or not that space is adequate for housing individuals?

A I would think one of the answers is pretty obvious -- no, it is not adequate. If it were adequate, then we would see more housing units designed as balconies. We would not have housing standards and housing requirements in terms of ventilation, air circulation, lighting and so forth relative to housing.

For example, the normal housing requirements of the Housing and Urban Development that require different circumstances for bedrooms than they do for living rooms or kitchens. So a balcony is a balcony and a sleeping unit is a sleeping unit.

And on the face of it I would say, no, a balcony does

not provide an adequate sleeping facility.

Q I would like you to assume the dormitories were designed to house 54 people and that they have in fact been used to house up to 120 individuals, any number above that up to 120. Do you have an opinion as to the suitability of those areas for housing that number of individuals?

A Well, given the already existing situation of confinement and the difficulties and problems that I described earlier, you are now adding a second issue on top of the confinement issue, which is the issue of crowding, and then probably a third issue which is the issue of privacy, which is different, again, from both confinement and crowding.

Yes, I would say that that certainly would, in my view, be regarded as a crowded situation. And there are a number of consequences that we know with crowding in general. There are a number of specific consequences that we know about, about crowding, in the case of prison environment. I can reference a study by Professor Garvin McCain of the University of Texas in which he stated the relationship between illness complaints and degree of crowding in a prison environment. In this study Professor McCain found that given dormitory residence and single- or double-cell residence, -- first of all, dormitory residents suffer the most from crowded situations in

terms of physical requirements or physical complaints. But the single- and double-celled residents also suffered.

The kinds of physical complaints he found were back pain, nausea, rash, sinuses, constipation, chest pain and asthma.

Going outside of prison literature now, the general view of crowding is that it is a stressing mechanism. And as a stressing mechanism, it can have a number of both behavioral and medical consequences. Stress-related diseases are a major cause of illness and death in the United States. Any stress mechanism can lead to stress-related diseases such as high blood pressure, ulcers, heart disease, things of this sort.

So that when crowding becomes a stress mechanism, on one hand, it is the possibility of these medical consequences.

The other kinds of consequence that can occur from crowding are a number of social consequences. There have been studies that indicate that under crowded conditions, withdrawal or the opposite of withdrawal, increased territorial behaviors, increased aggressions, can occur in crowded situations. So you have both the possibility of either medical or social manifestations of crowding.

Q Now, assume that the dormitories were not crowded but they were at capacity; do you have an opinion as to whether or not those areas would meet the privacy needs of any of the

people who will be housed at the MCC?

A Not as I understand both the human-environment relations literature of privacy and as I have reviewed the psychological literature of privacy.

MR. CORSI: I am going to object.

THE WITNESS: Primarily my opinion comes from the human-environment relations literature c crowding. Given the notion that crowding is really the ability to control the amount of social interaction in one's personal space at any point in time, I would say, no, that even at capacity the dormitory situations at MCC do not allow one to control social interaction to a sufficient degree to provide adequate sense of privacy on the part of residents.

Q What is the importance, if any, of privacy for human beings?

A Privacy has the same function as crowding; that is, the lack of adequate sense of privacy also is a stressing mechanism, and, as with crowding, directly one begins to feel stressed due to lack of adequate privacy. We fall into the same situation of possible medical consequences, possible social consequences due to a lack of sense of adequate privacy.

Q Having observed those dormitories, why do you conclude they are not adequate for privacy?

A Some of the specific things that I observed while I was there. In a more formal study I would take as indicators of privacy need on the part of the residents -- for example, I saw the men lying on their bunks with towels draped over the bars from the bunks above so that their view to the outside space in the dormitory was blocked. I would take that initially as an indicator of a need for more privacy.

I saw individuals lying on their bunks with blankets thrown over their face. These were in the dormitories that were not particularly well lighted, so I don't attribute it necessarily to the lighting conditions. Initially I take that as an indicator of a form of trying to obtaining visual privacy.

Also in talking with the interviews, in correlation with the observational things, there were comments about the lack of privacy, the inability to control interaction with other residents.

Q Do architects consider these values, the value of privacy, in designing facilities, buildings and institutions?

A The architectural profession has its roots in the humanities, first and foremost. As such, while we have technological concerns, while we have economical concerns, it

A 1952

don't know how beneficial they are. It is my understanding that the work of the clearinghouse is just beginning now to be evaluated. So I don't think the evidence, so to speak, is in, that all of the standards being promulgated by the clearinghouse can be classified as beneficial at this point.

Q Can we agree, then, that architectural standards in the field of correction are undergoing significant changes?

A Yes, I would agree with that.

Q And that there is no one standard that is the accepted standard above all others?

A In terms of a standard -- a standard, remember, is a fairly rigid kind of a statement. It is often a prescriptive thing -- you know, do this and do that. In terms of a standard, no, I take the same position that standards are unproven until tested. The intent, the motivations, as I understand them, behind the work of the clearinghouse certainly appear to be normal as are the motivations of most of the people I meet.

But, again, standards in a prescriptive sense as being beneficial, the evidence is not firm enough, in my view or in the view of other architects with whom I have discussed this.

Q Would agree with the following statement which is

Mr. Muschlin and, I think, one of the -- I think there was also an attorney for the defendants on that second one.

Q Mr. Conway, can we agree that color affects the way an individual will respond to his environment?

A Yes, the research literature seems to reflect that.

Q And can we agree that the color scheme at MCC is more likely to have a positive effect on the way man responds to his environment than the color scheme at Queens?

A My opinion would be yes.

Q Can we agree that the type of material in the environment would have an effect upon the way the man or an individual would respond to his environment?

A Probably, yes.

Q Can we agree that the presence of carpeting in the functional units at MCC would have a positive effect on the way a man or an individual would respond to his environment?

A Not positive. An effect, yes. But positive I don't know.

Q What kind of effect would it have?

A There is no research on that, to my knowledge. It is an unknown quantity. It appears to have an effect, as an accepted rule of thumb. Exactly what kind of effect is

A 1954

apparently unknown.

Q Can we agree that the presence of carpeting is better than the presence of steel floors that are in the Queens House of Correction?

MR. MUSCHLIN: I object. I'm not sure it has been established there are steel floors. I don't believe there are. I think it's concrete. I believe it's concrete, Mr. Corsi, if you want to change that now.

BY MR. CORSI:

Q Mr. Conway, I again would like to refer you to pages 742 and 743 of your testimony in the Queens Case. At line 23 on page 742:

"Question: Will you tell us what those observations are, please."

MR. MUSCHLIN: I think it might be more clear if you start at line 20. Line 24 is a follow-up to that.

"Question: Mr. Conway, on your tour of the cell area, did you make any observations about the construction and materials of which the cells are built?

"Answer: Yes, I did.

"Question: Would you tell us what those observations were, please.

"Answer: Yes. The materials, while they are

familiar to all of us in terms of prison construction, being steel, also had the characteristics of what are called drabness and harshness; that is, the harshness of steel and concrete as opposed, for example, to the softness and warmth of wood.

"The way the materials were disposed, that is, solid steel plates constituting the floor, the ceiling and the walls, and steel bars constituting the front surface, that is, the entrance surface to the cells, I noticed those."

Does that refresh your recollection?

A Yes, it does.

Q Can we agree that the presence of carpeting at MCC, has a positive effect on the way man responds to his environment, a more positive effect than the concrete and steel that was talked about in the Queens case?

A A more positive effect?

MR. MUSCHLIN: I'm going to object. I think he answered that question. I think that is the same question you just asked.

MR. CORSI: He didn't answer. My previous question was with respect to color. Now it is with respect to carpeting.

MR. MUSCHLIN: I thought you already asked with respect to carpeting once before.

MR. CORSI: No, I did not.

THE WITNESS: When I talked about a softer environment, I would say, yes, the carpeting provides a softer appearing environment.

Q And is that a positive factor in man-environment relations?

A Not in all cases.

Q Is it in MCC?

A I don't know. I don't have any evidence to show that it is or is not.

Q Does the presence of wooden furniture at MCC have a positive effect?

A Again, I can't state positive. I can only say softer.

Q And I take it softer is a good thing in the jargon of man-environment relations?

A No, it varies with the situation.

Q In the situation of a prison, would that be a good or a positive thing?

A I don't have any evidence that soft is good in prisons.

Q Does it affect sensory deprivation or whether or not an individual is experiencing sensory deprivation?

A I think not, because sensory deprivation is more often thought of as the variety of sensory stimulants. Now, there are a number of different kinds of stimuli rather than a particular stimulus. In other words, a single material, but only one material, could be conceived of as a sensory deprived situation. So, no, I don't think it would affect that directly.

Q If you were designing a prison or jail, would you put carpeting in, as opposed to steel plating or cement floor, in the living area?

A Given the hypothetical question that I would design a jail, which I would not, the answer is yes, I probably would.

Q Why wouldn't you design a jail?

A It's not the kind of commission that I have spent the best part of my professional part of my career doing. My career has been in research and human environmental relations rather than design, so I probably would not accept a commission to design a jail.

Q Would you accept a commission to design something else?

A Depends on what it was.

Q Why would you single out and exclude designing a jail?

A Jails are highly complex facilities, highly complex situations. Based on my understanding of the possible consequences of the design situations that are made in a jail, I don't feel that I or any other architect have adequate enough knowledge to design a jail.

Q Do you have any ethical problems in accepting a commission to design a jail?

A I think probably I would.

Q If you were to design a jail, would you put in wooden furniture, as opposed to the kind of furniture that you saw at Queens?

A I don't have enough information to make that kind of a design decision. There are possibilities for, I suppose, security problems with wooden furniture. People perhaps can break them up and hurt other residents. I don't have enough information to make that design decision.

Q Viewing the problem from a man-environment relations perspective, would you put wooden furniture in, as opposed to the kind of immobile furniture that you saw in Queens?

A Viewing the problem from the perspective of human-environment relations, I would not design a jail.

Q If you were to design a jail, would you include the window arrangements that are present in the rooms at MCC in the common areas at MCC --

A I don't have enough information to make that kind of a design decision.

Q Well, if I may be permitted to finish my question, I think it might be clear.

A I'm sorry.

Q Would you use those window arrangements instead of the glass block arrangements at Queens, again from a human-environment, man-environment relations perspective?

MR. MUSCHLIN: Are you asking whether it would be preferable to have windows rather than glass blocks?

MR. CORSI: Yes, and would he include them.

THE WITNESS: To the best of my knowledge, there have not been any post-occupancy evaluation studies done of the merits or benefits of the two kinds of windows that you described. Without that kind of evidence I would not make that kind of design decision.

BY MR. CORSI:

Q From a man-environment relationship perspective, do you think it is important in a jail setting that an individual have a view through a window to the outside world?

A The human-environment relationship literature indicates that a view to the outside world has been shown to be important in a number of situations, like office buildings and schools. Unfortunately, to my knowledge, there has not been any research that I am familiar with on the importance of windows relative to jail settings. The research may exist, but I am not aware of it, so I can't answer the question in the absence of knowledge.

Q Can we agree that the presence of natural lighting coming through a window is important in a jail center, again based on the man-environment perspective?

A The answer is the same, that to my knowledge there is no research about that question in a jail situation, so I can't answer. I think my answer on these kinds of questions is assumption and sort of the best guess of the imperfect knowledge of the design profession at this point.

Q Can we agree that the presence of wood furniture, carpeting and a color scheme that is not drab brings the living

A Yes.

MR. MUSCHLIN: And does.

BY MR. CORSI:

Q Mr. Conway, are you aware of any large urban jail -- again in a vertical situation -- that has a grassed roof or grassed recreation area?

A It is common in apartment buildings, but I know of no jail that has that, no.

Q You talked on direct about design capacity and that to increase the design capacity would totally violate one of the assumptions or premises of that design. Would that total violation occur when the design capacity was increased by one?

A It depends on the design situation. In the case of a telephone booth, yes.

Q Well, let's take the dormitory.

A I think, if the dormitories --

Q Fine.

A I'm sorry; did you say --

Q Fine. Have you designed any facility, be it an institution, a house, an apartment building, an office building?

A Yes, office building for one of my former employers.

Q Anything else?

A No.

Q When did you design that?

A In 1963.

Q Have you been back to inspect that building?

A Unfortunately, I haven't had the opportunity to do that.

Q Do you know if any of the areas that you designed for specific functions within that building have now been changed?

A No, I don't know that.

Q Mr. Conway, did you inspect any logs at MCC concerning incidents of violence or other antisocial behavior, any behavior that one might consider antisocial?

A No, I didn't. I don't think I saw any logs.

Q Have you done any systematic studies at MCC concerning the effect of confinement, either in a dormitory or one of the other units, on the inmates?

A No.

Q How long would it take you to do a study?

A Depends on the degree of confidence one wanted in the study. It is quite conceivable to do a study in as short a period as three weeks. Conceivably one could spend a lifetime

an increase in one would violate the notion -- that my recollection is that it was a light fixture over each of the beds, so increasing the population by one would deprive that person, for example, of a light fixture.

Q Now, do you recall whether or not the Queens House of Detention had an indoor gymnasium and a common auditorium, chapel, classrooms and library or whether it was designed on the functional living unit concept of MCC?

A My recollection is that it was not designed on the functional living concept at MCC. And, yes, I believe it does have those other facilities.

Q Now, could you describe why, in terms of the effects of incarceration on the individual, you recommend -- strike that. Could you tell me why, in terms of the confinement effect on individuals in confinement, you find the lack of common facilities such as gyms and auditoriums, et cetera, inadequate?

A Well, as I mentioned earlier, the lack of those facilities means that one cannot travel to them. And by not being able to travel to them, one is then deprived of the variety of environmental experiences both the travel to those places and being in those places would have provided.

A 1964

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

MICHAEL S. GARDNER (also known as S.
Michael Gardner and as S.M. Gardner),SUSAN M. BRAUNIG (also known as Mrs.
Susan M. Gardner and as S.M. Gardner),
and

SY YOAKUM GUTHRIE III,

Defendants.

INDICTMENT76 Cr. 21
(superseding
75 Cr. 741)COUNTS ONE THROUGH THIRTEENINTRODUCTION

The Grand Jury charges:

From in and around December, 1973 up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, MICHAEL S. GARDNER (also known as S. Michael Gardner and as S.M. Gardner, and hereinafter called "GARDNER") and SUSAN M. BRAUNIG (also known as Mrs. Susan M. Gardner and as S.M. Gardner, and hereinafter called "BRAUNIG"), defendants, together with SY YOAKUM GUTHRIE III (hereinafter called "GUTHRIE"), defendant in Counts 7 through 12 and 14 of this Indictment, and also together with others known and unknown to the Grand Jury (hereinafter called "confederates"), unlawfully, wilfully and knowingly did devise and intend to devise schemes and artifices to defraud and to obtain money and property from victims such as Arthur White and White Holdings Ltd. (Counts 1 and 4), L. Ross Allen and Forklean Farms Ltd. (Counts 2, 3 and 4), Barclay's Bank of New York (Counts 5 and 6), Fun

USA 336-475
(ED. 4-23-71)RESPONDENTS'
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A 1965

Tyme Packages Inc. (Counts 7 and 8), Myrtle Rupe (Counts 9, 10, 11 and 12), and retail stores, banks, and other commercial enterprises (Count 13) by means of false and fraudulent pretenses, representations and promises in the form of "advance fee" schemes and related schemes also involving false and fictitious names and titles and false, forged and spurious checks, instruments, and obligations.

(A) It was part and pattern of the advance fee schemes and artifices to defraud that:

GUTHRIE and other confederates would bring victims, in the form of persons and businesses in need of rapid and substantial financial assistance, to GARDNER, who would be introduced as an international financial consultant having ready access to large-scale financing from major foreign and domestic sources. GARDNER, purporting to act as the "agent" of undisclosed principals or in the name of companies such as Ekalb Investments Inc. and Penguin Products Company (which were actually mere shells), would promise to obtain rapidly for the victims major loans, letters of credit, permanent refinancing, or other forms of financial assistance from, through, or by means of major insurance companies, Swiss banks, Canadian, German and Panamanian corporations, European exchanges, and such entities. In return for such financial assistance, which the defendants and their confederates repeatedly assured the victims

A 1966

would be immediately forthcoming, the victims were required to make certain payments, of which thousands of dollars were required to be paid in advance. These advance fees, ranging from \$5,000 to \$25,000 and more, were required to be paid to GARDNER in the form of certified checks or other readily negotiable instruments.

GARDNER, BRAUNIG, GUTHRIE and their confederates had no honest expectation that the promised financial assistance would or could be obtained and had neither the capacity nor the intention to obtain it. Rather, the advance fees were immediately cashed or deposited into various personal bank accounts, including accounts opened by BRAUNIG falsely posing as GARDNER's wife, and the proceeds were then immediately spent on primarily personal uses, including payments secretly funneled by GARDNER to the benefit of GUTHRIE and other confederates as their shares of the proceeds of the fraudulent schemes.

Thereafter, GARDNER, BRAUNIG, GUTHRIE, and their confederates, having spent the advance fees, put off the demands of the victims by avoiding meeting or talking with them whenever possible, by claiming that there had been unavoidable or unforeseeable delays or that further monies were needed to meet unforeseen expenses, and by employing

A 1967

other such ruses to cover their fraud.

In the end, GARDNER, BRAUNIG, GUTHRIE, and their confederates never delivered any of the promised financial assistance and never returned any of the advance fees, but claimed instead that the deals had broken down because of some non-compliance, misrepresentation or failing on the part of the victims or of third parties that also precluded any repayment of the advance fees.

As GARDNER, BRAUNIG, GUTHRIE and their confederates well knew, their aforesaid pretenses, representations, and promises were false and fraudulent confidence schemes intentionally designed to defraud the victims of their advance fees and to conceal the fraud.

(B) It was part and pattern of the related schemes and artifices to defraud involving false, forged and spurious checks, instruments and obligations that:

GARDNER and BRAUNIG, with the aid of their confederates, would open accounts in both individual and corporate names (such as the fictitious name S.M. Gardner and the fraudulent enterprise Ekab Investments, Inc.) at the Metropolitan Trust Company in Canada and the Barclay's Bank of New York, and would acquire blank checks, instruments, and obligations (collectively referred to as "instruments") of said

A 1968

institutions and gain access to their services and facilities, which they would use for the commission of frauds upon said institutions.

Among other frauds, GARDNER would falsely and fraudulently complete the front sides of instruments of the Metropolitan Trust Company, using false, fictitious, forged and spurious account numbers, account names, and signatures, and making said instruments payable to the defendant BRAUNIG, who would then endorse these instruments on their backs and deposit them into an account in her own name at Barclay's Bank of New York. Thereafter, BRAUNIG, taking advantage of the extended delay foreseeable in the use of the international mails by Barclay's Bank and its agents in the clearing and collection of these instruments, would fraudulently urge Barclay's Bank to credit her account with the face amounts of said instruments and would withdraw these amounts from her account prior to the time that Barclay's Bank learned that these instruments were false and spurious.

(C) It was part and pattern of the related schemes and artifices to defraud involving false and fictitious names and titles that:

MICHAEL S. GARDNER having assumed the name of "S. Michael Gardner," SUSAN M. BRAUNIG would falsely and fraudulently assume the name of "Susan M. Gardner", and both would fraudulently assume the name of "S.M. Gardner." Further, GARDNER would falsely pose as an international financial consultant having ready access to large-scale financing, and BRAUNIG would falsely and fraudulently pose as GARDNER's wife, secretary, administrative assistant, business partner, and the like, as the occasion demanded, and would assume falsely and fraudulently such titles as "Mrs.", "Office Manager," "Administrative Assistant to President," and the like. By the use and with the aid of these assumed names and titles and the illusion of substance and respectability thereby created, GARDNER and BRAUNIG not only conducted, promoted, and carried on the advance fees schemes and false instrument schemes hereinabove described but also fraudulently arranged for the extension of credit from retail stores, banks, and other commercial enterprises, for the purpose of defrauding them and of conducting other unlawful business.

COUNTS ONE THROUGH FOUR

The Grand Jury further charges:

On or about the dates set forth below, in the Southern District of New York and elsewhere, defendants GARDNER and BRAUNIG, together with other confederates, unlawfully, wilfully, knowingly, and for the purpose of executing and attempting to execute the schemes and artifices set forth in the INTRODUCTION to this Indictment, in particular, the advance fee schemes relating to Arthur White, White Holdings Ltd., L. Ross Allen and Porklean Farms Ltd., did (a) cause certain matter to be placed in post offices and authorized depositories for mail matter, to be sent and delivered by the Postal Service and to be delivered according to the directions thereon, in violation of Title 18, United States Code, Sections 1341 and 2; (b) cause to be transmitted by means of wire and radio communication in foreign commerce certain writings, signs, signals, pictures and sounds, in violation of Title 18, United States Code, Sections 1343 and 2; and (c) transport and cause to be transported in foreign commerce securities and money of the value of \$5,000 or more, knowing the same to have been taken by fraud, in violation of Title 18, United States Code, Sections 2314 and 2; all as more particularly set forth below:

<u>COUNT</u>	<u>APPROXIMATE DATE</u>	<u>MATTER IN MAIL OR IN COMMERCE</u>	<u>TITLE 18, UNITED STATES CODE, SECTIONS</u>
1	February 18- 19, 1974	\$25,000 certified check from Arthur White transported by GARDNER from Niagara Falls, Ontario, Canada to New York, New York, U.S.A. and there cashed	2314 and 2

A 1971 A 14 Indictment

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|---|-----------------------|--|------------|
| 2 | March 7, 1974 | Letter from Penguin Products Company, 475 Fifth Avenue, New York, N.Y. to Ross Allen, 8 Church Street, St. Catharines, Ontario, Canada, typed by BRAUNIG and signed by GARDNER | 1341 and 2 |
| 3 | April 1, 1974 | Telephone call from GARDNER in New York, N.Y. to Ross Allen in St. Catharines, Ontario, Canada, asking Allen to send GARDNER \$5,000 immediately, which Allen did | 1343 and 2 |
| 4 | March-April-May, 1974 | Numerous telephone conversations between Ross Allen in Canada and BRAUNIG and GARDNER in New York, N.Y. | 1343 and 2 |

COUNTS FIVE AND SIX

The Grand Jury further charges:

In and around December, 1974, in the Southern District of New York and elsewhere, defendants GARDNER and BRAUNIG, together with other confederates, unlawfully, wilfully, knowingly, and for the purpose of executing and attempting to execute the schemes and artifices set forth in the INTRODUCTION to this Indictment, in particular, the defrauding of Barclay's Bank of New York by means of false, forged and spurious checks, instruments and obligations, did cause certain matter to be placed in post offices and authorized depositories for mail matter, to be sent and delivered by the Postal Service and to be delivered according to the directions thereon, in violation of Title 18, United States Code, Sections 1341 and 2, to wit, they did cause Barclay's Bank of New York and its agents to send through the mail for clearance and collection the two fraudulent instruments of the tenor set forth on the following page of this Indictment, which mailings are respectively Count Five and Count Six of this Indictment.

(Title 18, United States Code, Sections 1341 and 2.)

A 1972

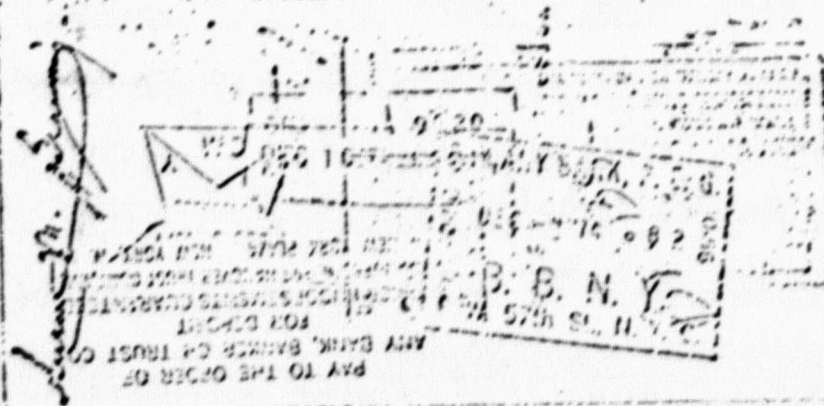
Account no. 2154
 300 3 1974
 NEW YORK 4875 111
 Metro Trust
 Pay to the order of JOHN A. BRAUNIG
 \$ 4875.11
 Four thousand eight hundred seventy five and 11/100
 The Metropolitan Trust Company
 353 Bay Street, Toronto 1, Ontario
 J. S. Harris
 John Robert Braung
 000002-0020 00003-950 000004875000



(Title 18, United States Code, Sections 1341 and 2.)

[COUNT SIX]

U.S. Funds
 C1420
 Dec 4, 1974
 Metro Trust
 Pay to the order of JOHN A. BRAUNIG
 \$ 4931.09
 Forty nine hundred thirty one and 09/100
 The Metropolitan Trust Company
 4861 Van Horne Avenue
 Van Horne Shopping Centre
 Montreal 252, Que.
 000002-0020 00003-990 000004931090



(Title 18, United States Code, Sections 1341 and 2.)

A 1973

A 10 Indictment

COUNTS SEVEN AND EIGHT

The Grand Jury further charges:

On or about the dates set forth below, in the Southern District of New York and elsewhere, defendants GARDNER, BRAUNIG and GUTHRIE, together with other confederates, unlawfully, wilfully, knowingly and for the purpose of executing and attempting to execute the schemes and artifices set forth in the INTRODUCTION to this Indictment, in particular the advance fee scheme relating to Fun Tyme Packages Inc., did (a) cause certain matter to be placed in post offices and authorized depositories for mail matter, to be sent and delivered by the Postal Service and to be delivered according to the directions thereon, in violation of Title 18, United States Code, Sections 1341 and 2; and (b) cause to be transmitted by means of wire and radio communication in interstate and foreign commerce certain writings, signs, signals, pictures and sounds, in violation of Title 18, United States Code, Sections 1343 and 2; all as more particularly set forth below:

<u>COUNT</u>	<u>APPROXIMATE DATE</u>	<u>MATTER IN MAIL OR COMMERCE</u>	<u>TITLE 18, UNITED STATES CODE, SECTIONS</u>
7	January 29, 1975	Letter from GARDNER addressed to Mr. Mark B. Parker, Attorney at Law, P.O. Box 47, Mineola, N.Y. 11501, bearing the postmark New York, N.Y. 10017 (indicating a postal zone in Manhattan) and stating that letters of credit had been issued to Fun Tyme Packages, Inc.	1341 and 2
8	February 7, 1975	Cable from M. Vigevani, Banque Fiduciaire, Geneva, Switzerland to Bank of New York, New York, N.Y.	1343 and 2

A 1974

COUNTS NINE THROUGH TWELVE

The Grand Jury further charges:

On or about the dates set forth below, in the Southern District of New York and elsewhere, defendants GARDNER, BRAUNIG and GUTHRIE, together with other confederates, unlawfully, wilfully, knowingly and for the purpose of executing and attempting to execute the schemes and artifices set forth in the INTRODUCTION to this Indictment, in particular the advance fee scheme relating to Myrtle Rupe, did (a) cause to be transmitted by means of wire and radio communication in interstate and foreign commerce certain writings, signs, signals, pictures and sounds, in violation of Title 18, United States Code, Sections 1343 and 2; and (b) induce a person to travel in and to be transported in interstate commerce in the execution and concealment of schemes and artifices to defraud that person of money and property having a value of \$5,000 or more, in violation of Title 18, United States Code, Sections 2314 and 2; all as more particularly set forth below:

<u>COUNT</u>	<u>APPROXIMATE DATE</u>	<u>MATTER OR PERSON COMMERCE</u>	<u>TITLE 18, UNITED STATES CODE, SECTIONS</u>
9	February 14, 1975	Telephone conversation between GARDNER in New York, N.Y. and Myrtle Rupe, in Oklahoma City, Oklahoma, arranging for Rupe to meet GARDNER in New York	1343 and 2
10	February 17, 1975	Travel by Myrtle Rupe from Oklahoma City, Oklahoma to New York, N.Y.	2314 and 2

A 1975

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- 11 March 12, 1975 Telephone conversation 1343 and 2
between GUTHRIE in New
York, N.Y. and Myrtle
Rupe in Oklahoma City,
Oklahoma
- 12 April 4, 1975 Telephone conversation 1343 and 2
between GARDNER in New
York, N.Y. and Myrtle
Rupe in Oklahoma City,
Oklahoma

COUNT THIRTEEN

The Grand Jury further charges:

From in and around 1973 up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, defendants BRAUNIG and GARDNER unlawfully, wilfully, knowingly and for the purpose of conducting, promoting and carrying on by means of the Postal Service the schemes and artifices set forth in the INTRODUCTION and the preceding Counts of this Indictment and other unlawful business, including the defrauding of retail stores, banks, and other commercial enterprises, did use, assume, request to be addressed by, and aid and abet each other in the fraudulent use of, certain fictitious, false, and assumed names and titles other than their own proper names and titles; in particular, MICHAEL S. GARDNER having assumed the name of "S. Michael Gardner," SUSAN M. BRAUNIG assumed such names and titles as "Susan M. Gardner," "Mrs. Susan M. Gardner," "Mrs. S. Michael Gardner," and the like, and both then assumed the name of "S. M. Gardner," and under these names and titles did send matter through the mails and did take and receive mail matter addressed to these fictitious, false and assumed names and titles.

(Title 18, United States Code, Sections 1342 and 2.)

1st Joseph P. McMoran
FOREMAN

St Thomas J. Cahill
THOMAS J. CAHILL
United States Attorney

RX-B
A 1976

Richard S. Barker
100 Park Ave
New York, New York 10007

September 6, 1976

Honorable Robert Ward
United States District Judge
Southern District of New York
U.S. Courthouse
40 Foley Square
New York, New York 10007

Dear Judge Ward,

I write you with two purposes in mind. First, I would start by thanking you. My unfortunate path in recent years has lead me to many a courtroom. Forgive me if I am presumptuous but, I have gained more from my short time in your courtroom than I have from all the rest together, and then some. It was you who gave me the courage, by treating me like a man - yes, I've become accustomed to being treated like something less - to plead guilty for the first time. This was a major step forward in coming to grips with myself. It drove home a certain realization of what my situation is. Something I have not been able to face until now. It is as though I have been in a semi-conscious state, almost dead most of the day. This is not I've gotten through these sixteen months in jail. I thank you for forcing me to wake up and face my predicament.

I thank you for giving me the "humanity" hearing and for the sincerity you showed. I know you listened with open mind to both sides of the story. When you ruled, obviously I couldn't be happy; but, neither could I be aggrieved, because you explained how you viewed the matter relative to law. What you spoke was pure and simple, it was logical beyond question. Your evaluation of Mr. Thaller's credibility, and the reason you so credited him, as well as your overview of the situation, were remarkable for one day's observation.

Last of all, I appreciate the way you treated me. Being in prison has been a horrid experience. It is dehumanizing and I had almost forgotten that I was able to exist for myself. Being in your courtroom was clearly a turning point for me in many ways.

I am now to the second, my second reason for writing, to request leniency. Your honor, I have many grounds for making this request. The crime in question

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(D. 423-71)

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A 1977

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goes back to 1972, prior to the commencement of my co-operation. The same period of time, during which the other actions for which I have already been punished took place. I am guilty; but my part in the transaction was minimal, and I don't know how it could be said that I victimized anyone. I was just trying to help a friend who was down on his luck, and thereby to help myself.

I humbly submit that my co-operation with the Government, co-ordinated by Mr. Thaller, invoked the wrath of Mr. Edwards (this indictment was returned a mere few days prior to his leaving the office) and, in effect, was the cause of my problems in the Southern District. For the past three years, I have lived a horrid existence. My life has been under constant threat as a result of my co-operation, and at the same time, the Southern District has pursued me relentlessly. I have been investigated to a point that staggers reason.

My prison experience has been complicated by the fact that since my first day of incarceration to the day of sentencing in this case, I have had detainers lodged against me in the form of pending cases. Hence, such privileges as furloughs, normal custody evaluation, parole, ect. have never been available to me. I have not had one moment of freedom in the last sixteen months. This case is, hopefully, my last. My prison experience has been further complicated by my co-operation, as I have been moved some twenty-four times and travelled over 25,000 miles in chains, since incarcerated. I have been required to change from witness to defendant with amazing agility.

I am not in any way a part of any criminal sub-culture found in jail. As a result, jail is a very lonely experience for me. George Bernard Shaw once said, "He knows what the criminal type is - it is manufactured in prison by the penal system: If you keep one (man) in penal servitude and another in the House of Lords for ten years, the one will show the stigmata of a typical convict, and the other of the typical peer." I fear the effect of prolonged imprisonment. The myth of prison as a rehabilitative force has long been dispelled; the problem becomes to avoid the negative effects of my environment. I attempt to do this by staying as much to myself as possible. Prisons are not, however, designed to allow for this type of behavior, but are more structured for communal living. I attempt to spend my time reading and writing, but again the simple objective of self-betterment is difficult to achieve. Jail certainly seems like a counter-productive experience as, the longer I am here, the less fit I will be to reenter society.

My personal life will, no doubt, be before Your Honor in other documents. In short, I am an honor graduate of Brooklyn College, I served my country honorably as an officer in the U.S. Navy, and I feel I have many legitimate business ventures under my belt. I have been married for fifteen years, and am the father of three wonderful children. My mother, who is very dear to me, is in failing health; my father is deceased. My sleepless nights in jail are marred by thoughts, and filled with nightmares, of such things as the children

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page three

(my twins are now fourteen) leaving for college before I return home, or of my mother dying before I am released from jail.

Punishment is far from equal. Few people in jail have ties to the community such as mine. As a result, the separation from the community, coupled with the condemnation of our society, and the actual experience of confinement itself have, indeed, been a disheartening experience. What you see now is only a portion of the man that once was. What is suppressed by putting me in jail is the family ties, the community ties, all of the worthwhile aspects of my existence. What is encouraged is my criminal mentality. Indeed jail, by bringing out the worst in a man, can teach a lesson; a lesson in what one does not want to become, a lesson in anti-social behavior. I have been in jail for sixteen months and have, by now, certainly learned anything that jail can ever teach me.

I am working hard to complete drafts of two books while in jail. One is a tabloid of my personal experiences, the other is more academic in nature and is a study of economic trends in America. I hope to have them both ready for publication upon my release. I plan to attempt a new career upon release, in the area of investigative journalism.

I hope the Court will consider that further incarceration can, indeed, serve no purpose - as well as the fact that it is hardly called for, in view of the fact that this case is a 1973 fact pattern, which I told the Government about.

I beg the Court to consider some form of punishment short of prison for me, for the remainder of my term. Wouldn't society be benefited and justice be better served if I were in a half-way house or on a work release program, where my time was dedicated to community or charitable service? Wouldn't I be benefited and rehabilitated further if I were allowed to return to school or to dedicate my time to community or charitable service? In this enlightened age, before a Court such as yours where wisdom and justice prevail, isn't there an alternative to continual imprisonment which would better serve the ends of justice?

Because of security reasons, Judge Pierce recommended that I be sent to Allenwood and not returned to Danbury. My life would be in jeopardy at Danbury or Lewisburg. May I request that this Court recommend similarly that I be sent to Allenwood, or that I be kept in New York and be allowed to finish my term at a half-way house or on a work release program and utilize my time as discussed above.

Again, my thanks for your consideration and time,

Respectfully,



Michael S. Gardner

Rx-C

A 1979

DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

76 CR. 21

MOTION FOR DISMISSAL

MICHAEL GARDNER et al.

Now comes Michael Gardner, hereby moving this Court for a dismissal of the instant indictment on the grounds that he has been denied his right to a speedy trial as guaranteed by the Sixth Amendment of The Constitution of The United States of America. As more recently detailed by Public Law 9-619 and that Petitioner has suffered grave prejudice by said denial, and that Petitioner is currently incompetent to stand trial.

CAUSES FOR DEMAND OF DISMISSAL

1- Petitioner was arrested and arraigned on the original Indictment in this case on May 16, 1975.

2- Bail was set at \$ 50,000.00 cash or surety on May 16, 1975 and it still stands despite motions to reduce said bail.

3- Petitioner has been incarcerated since May 16, 1975, as this Indictment was the basis of his removal.

4- No detainer has ever been placed against defendant regardless of the above.

5- As a result of the long delay defendant Gardner's major witness Miss Susan Brownig is now unavailable. This witness had spent months gathering physical evidence, the substance and location of which is generally unknown to Gardner. As a result of Miss Brownig's unavailability the bulk of this evidence cannot be produced at trial at this time.

6- The Government has not filed a notice of readiness relative to 76 Cr. 21.

USA 136-475
(S.D. 423-71)

RESPONDENT'S
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

A 1980

- 7- The Government has on the eve of trial presented the defense with an amended Bill of Particulars alleging similar acts which became available to the Government only within the last sixty days and therefore are the product of the delay.
- 8- The Government has within thirty days of the trial date turned over approximately an additional four thousand pages of Discovery Material.
- 9- The long delay has caused anxiety and concern in the mind of Defendant Carter to the point where he has become so depressed that he is unable to function normally and is no longer physiologically competent to stand trial.

CONCLUSION;

The delay of almost one year from the date of indictment and arraignment and to the date of trial has prejudiced defendant to the point where a fair trial is not possible.

RIGHTS OF THE

SIX RIGHTS OF THE UNITED STATES CONSTITUTION PROVIDES THAT:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial....."

The United States Supreme Court has repeatedly guarded these precious rights of an accused person, recently in Henry v. United States, 93 S. Ct. 2260, 13 CH 3129, 13 VOL 1794, (No. 725321, June 11, 1973).

"The Sixth Amendment right Constitutionally guaranteed, is a right absolute and a right of first magnitude. The sole remedy when this right is abridged is reversal, vacation of the sentence and a dismissal of the indictment. Nothing less will suffice.

The decision in Strick turned up on a line Supreme Court cases which have dealt increasingly harshly with the deprivation of Speedy Trial and/or procedural due process rights which cover, as in the case at Bar, even with persons held for service of an unrelated Prison sentence and in another jurisdiction. Howe v. United States, 147 US 460, 12 S. Ct. 2122, 37 L. Ed. 191 (1912); United States v. Marion, 148 U.S. 397, 12 S. Ct. 185, 39 L. Ed. 148 (1911); Dickey v. Florida, 398 US 309, 25 L. Ed. 607 (1970); Florida v. North Carolina, 396 US 213, 47 S.Ct. 933, 18 L. Ed. 28 (1970). The sum total of these decisions is that the prosecution must promptly move against a confined prisoner even if in another sovereign's jurisdiction.

Baker, *supra*, expressly and flatly held that:

"A defendant has no duty to bring himself to trial; The State has that duty as well as the duty of insuring that the trial is consistent with Due Process. Moreover for the reasons earlier expressed, society has a particular interest in bringing swift prosecutions and society's representatives are the ones who should protect that interest."

In Smith -v- Hoocy, It was plainly stated:

".... At least three basic demands of criminal justice in the Anglo-American legal system are: (1) to prevent undue and oppressive incarceration prior to trial; (2) to minimize anxiety and concern accompanying public accusation; and (3) to limit the possibilities that long delay will impair the ability of an accused to defend himself."

The comments of the Seventh Circuit Court of Appeals in regard to these factors as related to already confined prisoners are noteworthy, for that Court, in Strunk -v- United States, 467 F. 2d 969 (7th Cir., 1972), remarked:

"At first blush it might appear that a man already in prison under a lawful sentence is hardly in a position to suffer from undue and oppressive incarceration prior to trial. But the effect is that delay in bringing such a person to trial on a pending charge may ultimately result in as much oppression as is suffered by one who is jailed without bail upon an untried charge. First, the possibility that the defendant already in prison might receive a sentence at least partially concurrent with the one he is serving may be forever lost if trial of the pending charge is postponed."

It has long been held as well-stated law that the accused has no obligation to either demand that he be prosecuted against or that he waive his Speedy Trial Rights in so demanding, before he may assert that his Sixth and Fourteenth Amendment Rights have been ignored and violated.

Chief Justice Warren E. Burger, stated in Dickey *supra*:

"When the Sixth Amendment Right to a Speedy Trial is at stake, it may be.... Realistic and necessary to assume prejudice and the accused shows that he was denied a rapid prosecution."

There is of course, an almost endless line of decisions from the U.S. Court of Appeals, notably from the Fifth Circuit and the District of Columbia Circuit, many of which deal with prosecutions arising out of the lower District of Columbia Courts and State Courts notorious for the slothful and inept procedures in the deep South. A widely cited case from the District of Columbia is United States -v- Puckner, 464, F. 2d 923 (D.C. Cir. 1972), wherein it was stated, in line with the Dickey quotation last given above, that:

"A delay of a year between arrest and trial raises a Sixth Amendment claim of prima facie merit'. Holmes -v- U.S., 364 F2d 684 (D.C. Cir., 1966). It places on the government the necessity of justification, the burden of which increases with the length of delay. Id at 687. When the delay approaches a year as in this case, the government must provide a justification which convincingly outweighs the prejudice which can normally be assumed to have been caused the defendant. U.S. -v- Jones, 455 F 2d 1317 (D.C. Cir. 1972).

A 1982

That procedural Due Process is denied, per se, is clearly shown when delay occurs. Ross - v - United States, 219 F.2d 210 (D.C. Cir., 1965) -v- United States, 370 F.2d 2d, (D.C. Cir. 1966); Hickens -v- United States, 323 F.2d 603 (D.C. Cir., 1963) Judge J. Skelly Wright's concurring opinion (12-615, Specially); United States - v - Walker, 319 F. Supp. 585 (D. Ala.); Smith - v - U.S., 474 F.2d 503 (4th Cir., 1973); relying equally on compliance with Speedy Trial requirements noted in Baker - v - Wingo supra.

Supreme Court Justice Harry A. Blackman opined, while still in the Eight Circuit Court of Appeals, in Hodges - v - United States, 408 F.2d 543 (8th Cir., 1969) that "the right to a Speedy Trial is not to be honored only for the vigilant and knowing." Accord, Murray -v- Wainwright, 450 F.2d 465 (5th Cir., 1971); United States - v - Auerbach, 420 F.2d 931 (5th Cir., 1969).

The theorem earlier advanced in United States -v- Rosenstein, 434 F.2d 640 (2nd Cir., 1970) and United States -v- Sklaroff, 323 F. Supp. 296 (So. Fla.) that the accused must show prejudice on account of delay, a test which we believe is amply met here, before he may assert that procedural due process and or speedy trial was denied, has been contradicted in a host of cases and forever put to rest in: Dickens - v - Florida, supra, Baker - v - Wingo, supra, and Strunk -v- United States supra. Accord, Kinz -v- United States, 431 F.2d 734 (5th Cir., 1970); Smith -v- United States, 424 F.2d 876 (D.C. Cir., 1969) Winton -v- United States, 424 F.2d 876, (D.C. Cir. 1969); United States -v- McClure, 473 F.2d 81, (D.C. Cir. 1972) and Arment -v- Wainwright, 468 F.2d 677 (8th Cir., 1972).

The Second Circuit's decision in United States -v- Luffman, F.2d (2nd Cir., 1958) as well as Judge George L. Hart, Jr.'s learned opinion in The United States -v- Berry, 353 F. Supp. 1235 (D.C. 1973), leave very little to be said in cases where, as here, extended delay occurred. As long ago as 1958, the government's appeal to the Supreme Court for certiorari was denied, 358 US 880, 79 S. Ct. 118, 3 L. Ed. 109, (1958). Similarly, the government was denied certiorari at 394 US 909, 89 S. Ct. 1021, 21 L. Ed. 2d 221 (1968) when it sought to overturn the Appeal Court's decision to favor Petitioner in Blunt - v - United States, 404 F.2d 1283 (D.C. Cir. 1968), who was granted relief and whose Speedy Trial Rights were denied by the government failure to move promptly.

Even persons held in custody while competency proceedings were in progress, at the Petitioner's own behalf, have been held to have Speedy Trial Rights, and the Courts have condemned delays there. See United States v. Dunn, 405 F. 2d 672 (D.C. Cir., 1972); accord, Smith v. United States, 418 F. 2d 1120 (D.C. Cir. 1969); United States v. Branch, 466 F. 2d 1129 (D.C. Cir., 1972). This Court is asked to take judicial notice, especially, of the tone and the wording of the opinion in Dunn, supra, written by the learned Circuit Judge, Honorable Edward A. Tamm, who quoted on and on from Alouf v. United States, supra, and Wiley v. Florida, supra. In flatly reversing Dunn's conviction, Judge Tamm held that a 323 day delay occasioned by psychiatric hospitalization requested by defense counsel, plus other delays were absolutely intolerable; and at page 1119 of Dunn, he said:

"This somewhat lengthy dissertation clearly establishes the basic nature of this fundamental right, and yet repeatedly paid only lipservice by the Courts."

His Honor's further comments at pages 1112-1113 are clear and forceful.

Public Law 93-619 of September 22, 1975, which created 18 USC 3682 (1) (1) echoes by the local rules (the Federal Rules pursuant to the provisions of the Speedy Trial Act of 1975 P.L. 93-619 at page 2 Section 10 (b)) Clearly states (1) (1) If the attorney for the Government knows that a person charged with an offense a term of imprisonment in any penal institution, he shall promptly- (A) undertake to obtain the presence of the prisoner for trial; or (B) Cause a detainer to be filed with the person having custody of the prisoner and request him to so advise the prisoner and to advise the prisoner of his right to demand a speedy trial.

In the instant case neither alternative was followed, as no detainer has ever been lodged, nor was prisoner given a speedy trial. The failure of the Government to lodge such a detainer while it is possible for Prisoner to fill out otherwise available institutional forms in order to demand an immediate trial. A procedure which Prisoner attempted to follow.

The Defendant further states at this time that he is incompetent to stand trial. Defendant begs the Court for psychiatrist evaluation prior to the start of trial. Which defendant is confident would bear out his contention. Defendant further that the Government's failure to grant him a speedy trial is in large degree the cause of his current incarceration. As authority we cite Drops v. Missouri 3, Ct. No. 75-0033 decided February 19, 1976. Which states "It has long been accepted that a person whose mental condition is such that he lacks the capacity to understand the nature and object of the proceedings against him, to assist with counsel, and to assist in preparing his defense may not be

A 1984

subjected to a trial... In *Ex parte Robinson*, 383 U.S. 375 (1966), we held that the failure to observe procedures adequate to protect a defendant's right not to be tried or convicted while incompetent to stand trial deprives him of his due process right to a fair trial.

If a hearing relative to defendant's competence were held now the defendant would ask the Court to examine the psychiatrist at the MCC where Gardner is currently housed, Gardner's wife, herself a psychologist on the staff of Hunter College, a fellow inmate at the M.C.C. who sleeps next to Gardner, Gardner's attorney, and Gardner himself. If this were done it is our contention that without a doubt and with a fair showing would be established. To deny Gardner's incompetency the defense has qualified psychiatrists who have been recognized as experts both professionally and in court, and are ready to examine the defendant and report there findings immediately to the court. If the court should choose to follow this procedure and appoint private psychiatrists it is our contention that this would probably not allow the Court to be able to rule on this contention.

CONCLUSION

It is therefore requested that the indictment in this case be dismissed. In the alternative it is requested that Gardner undergo immediate psychiatric testing to determine if the defendant is currently competent to stand trial. It is further requested that material recently discovered such as the alleged alibi note not be allowed at trial, as they were discovered over eight months after the filing of the only notice of readiness ever filed regarding this case. That notice filed on August 8, 1974 was of course pertaining to an indictment which was superseded. The Government is however precluded under local rules from filing a notice of readiness more than six months from the date of the original indictment. It is therefore impossible for the Government to file a notice of readiness on the instant indictment 76 CR 21, as the only such filing on May 15, 1974 was more than six months prior to the filing of the instant indictment which was the second superseding indictment.

The Government therefore, in our opinion erroneously, in relying on the August 8th 1975 notice of readiness which was filed relative to the prior indictment, which has since been nullified. How can events of March 1976 be used at trial as similar acts? How can material obtained by supposes six months after the filing of the notice of readiness be allowed at trial? We maintain that it cannot. Hence defendant demands that all such recently discovered material be suppressed as being obtained in violation of defendant's Constitutional Rights and as a result of the denial of the defendant's right to a speedy trial.

Dated

April 26, 1976

RX-F

150 Park Ave
New York City

A 1986

June 1, 1976

Warden L. Taylor

Metropolitan Correctional Center

New York N.Y.

Dear Warden Taylor,

As my wife explored I would appreciate the opportunity to do something constructive with my time while I am here at the M.C.C. Current circumstances would indicate that I will be here for some time to come. I currently have served well in excess of one year of the three year sentence imposed on me. I am currently again awaiting sentencing.

My background in brief is as follows;
Graduated Brooklyn College B.A. in economics, 1961
U.S. Naval Officer Candidate School July 61 - Nov. 61.
Served three years as an officer in the U.S. Navy
doing "Special Services" work in other words
specializing in Recreation Services.

Upon release attended the New York Institute of Finance and received their certificate.

Entered the brokerage business and eventually became president of a substantial brokerage firm as well as having numerous business interests.

I have taught finance on an adult education college level at the New School for Social Research, many other places.

USA 330-675
(R.D. 4-22-71)

RESPONDENTS'

EXHIBIT

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S. D. OF N. Y.

FILED

A 1987

I have a thorough knowledge of accounting and systems work as well as extensive administrative experience. I would welcome an opportunity to work in the education department, business office, recreation dept, or in any other administrative or clerk capacity in which I could be of assistance.

By the time I am ready to leave the M.C.C. which will be several months it is my hope that my time will be short enough that I can be re-designated here.

I thank you for your consideration and for the courtesy you have always shown my wife and myself.

Sincerely,
Michael Burden
26035-145

RX-I

A 1988

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry F. Taylor, Warden
MCC-NY

FROM : *imr* Michael R. Rauch, Chairman,
Task Force (Visiting)

SUBJECT: Task Force Recommendations

MCC-NY, NY
DATE: October 25, 1976

The objective of this task force was to provide recommendations for improving the efficiency in the processing of visitors at the Metropolitan Correctional Center, New York.

I. RECOMMENDATIONS - FILING SYSTEM

- A. A tray scheme similar to that used in the third floor count center be developed, *OK*
1. Visiting lists (see attachment 1) arranged by floors and in alphabetical order.
 2. Interunit moves be communicated to the lobby officer by unit staff. *
 3. Releases from the MCC to be pulled from trays by the 12:00 AM to 8:00 AM control room officer.
 4. Voucher forms be maintained as presently done, but removed at the end of each visiting week. This would eliminate the need of accounting for weekly visits on the visiting form itself.

II. RECOMMENDATIONS - VISITING REGULATIONS

- A. Visiting regulations be printed in English and Spanish on the back of the voucher forms (see attachment #2).

III. RECOMMENDATIONS - PROCESSING TIME

- A. A time clock indicating the date and time be installed at the lobby officer's desk.
1. When the visitor completes the voucher form, the officer will stamp the date and time the voucher was given to him for processing.



5010-110

Time Clock. . . Printing Cost
File Cabinets. . .
Storage area

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

RX-I

A 1989

IV RECOMMENDATIONS - SECURITY (LOBBY)

- A. A barrier should be constructed in such a manner as to restrict physical contact between processed and nonprocessed visitors.
1. The barrier should be transparent so that visual surveillance can be maintained.
 2. The location of the barrier is necessary in the vicinity of the passenger elevators.

Lochary
V RECOMMENDATION - VISITOR PROPERTY

- A. Personal property which cannot be taken to the visiting rooms should be kept on shelves.
1. The location of these property shelves should be in a secure area immediate to the passenger elevators.

VI RECOMMENDATION - RECEPTIONIST DESK

- A. The receptionist desk needs to be redesigned and relocated so as to restrict access to the telephone console. This is especially important during the weekends.
1. Relocation closer to the lobby officer's desk is recommended with a similar design. The telephone console could then be situated below the counter.

Attachments (2)

cc: A. Bulter, Exec. Ass't. to Warden
J. R. Johnson, A/W(P)
R. Verdeyen, A/W(O)
H. Harrington, Case Mgmt. Coordinator
G. Demesme, C.O.
G. Summors, C.O.

Chrono

A 1990

METROPOLITAN CORRECTIONAL CENTER - NEW YORK

VISITING RECORD

NAME: _____ REG. NO: _____

VISITORS.

1. NAME: _____ 4. NAME: _____
 ADDRESS: _____ ADDRESS: _____
 2. NAME: _____ 5. NAME: _____
 ADDRESS: _____ ADDRESS: _____
 3. NAME: _____ 6. NAME: _____
 ADDRESS: _____ ADDRESS: _____

VISITING REGULATIONS: SEE REVERSE SIDE FOR VISITING REGULATIONS IN ENGLISH AND SPANISH.

JAN.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
FEB.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
MAR.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
APR.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
MAY	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
JUN.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
JUL.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
AUG.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
SEP.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
OCT.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
NOV.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
DEC.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31

A 1991

REGULACIONES DE VISITAS

NOMBRE: _____ NUM. DE REG.: _____

1. Solamente seis (6) personas en la lista.
2. No se deben poner en la lista de visitantes los menores de edad (menores de 18 años) ni los abogados.
3. No se permiten mas de tres (3) visitas al mismo tiempo.
4. Solo tres (3) visitas por semana, de domingo a sábado.
5. Solo se permiten documentos legales en el salon de visitas.
6. Si Ud. entiende estas regulaciones, firme su nombre y numero encima.
7. Devuelva esta lista al oficial.

A 1992

VISITING REGULATIONS

NAME: _____

REG. NO: _____

1. Only six (6) persons on list.
2. Children under eighteen (18) and attorney should not be put on visiting list.
3. No more than three (3) visitors allowed at one time.
4. Only three (3) visits a week, between Sunday through Saturday.
5. Only legal documents permitted in Visiting Room.
6. Sign name and number on top, if regulations are understood.
7. Return this list to officer.

(SPANISH)

A 1993

PEDIDO A VISITA

Yo pido (nosotros pedimos) permiso para visitar al residente siguiente:

NOMBRE: _____ NUMERO: _____ FECHA: _____

NOMBRE DE VISITANTE

DIRECCION

RELACION

Yo entiendo (nosotros entendemos) que algun intento de introducir cualquier cosa ilegal en esta institucion, o sacar de contrabando articulos de la institucion puede ser procesado bajo la ley Federal. "Cualquier persona, contra alguna regla o regulacion promulgada por el Fiscal, introduce o trata de introducir en cualquier institucion correccional o penal del gobierno Federal, o quien coge o trata de coger de alli cualquier cosa sera encarcelada por un tiempo no mas de diez (10) anos. Titulo 18, U.S. Code, Seccion 1791 - C87.

REGULACIONES DE VISITAS:

1. Niños menores de 18 años deben de ser acompañados por un adulto.
2. Solo se permitiran documentos legales en el salon de visitas.
3. Solo se permitiran tres (3) visitas al mismo tiempo.
4. Solo tres (3) visitas por semana, de domingo a sábado.

COMENTARIO POR EL OFICIAL DE VESTIBULO: (LOBBY OFFICER'S COMMENTS:)

ARTICULOS DE CONTRABANDO (LISTA):

Dinero	(	)
Drogas	(	)
Bebidas Alcoholicas	(	)
Armas	(	)
Comidas	(	)
Ropa	(	)
Libros	(	)
Otro (Excepto si	(	)
autorizado por		
oficiales de la unidad.)		

Hora de Entrar: _____
(Hour of Entry)

Firma del Oficial _____
(Signature of Officer)

Hora de Salir: _____
(Hour of Exit)

A 1994

REQUEST FOR VISIT

(we) request permission to visit the following inmate:

NAME: _____ NUMBER: _____ DATE: _____

VISITOR'S NAME	ADDRESS	RELATIONSHIP

I (we) understand that any attempt to introduce any unlawful article into this institution, or to smuggle articles from the institution may be prosecuted under Federal laws. "Whoever, contrary to any rule or regulation promulgated by the Attorney General, introduces or attempts to introduce into or upon the grounds of any Federal penal or correctional institution, or takes or attempts to take or send therefrom anything whatsoever shall be imprisoned not more than ten years", Title 18, U.S. Code, Section 1791 - C87.

VISITING REGULATIONS:

1. Children under 18 must be accompanied by an adult.
2. Only legal documents permitted in the Visiting Room, nothing else may be given or received without consent of unit staff.
3. Only three (3) visitors allowed at one time.
4. Only three (3) visits permitted, Sunday through Saturday.

LOBBY OFFICER'S COMMENTS:

TIME IN: _____

CONTRABAND ITEMS (LIST):

TIME OUT: _____

Money	(	)
Drugs	(	)
Alcoholic Beverages	(	)
Weapons	(	)
Food	(	)
Clothing	(	)
Books	(	)
Other (Unless authorized by unit staff)	(	)

OFFICER'S SIGNATURE

A 1995

RX-J

M.C.C. RELIGIOUS PROGRAMS

I. Catholic: Chaplain (Father) Thomas J. Tolentino
Coordinator of Chaplaincy Services

Sunday: Masses - 1:15 p.m. 5th Floor North
1:45 p.m. 5th Floor South
2:15 p.m. 7th Floor
2:45 p.m. 9th Floor
3:15 p.m. 11th Floor
4:00 p.m. 3rd Floor

Confessions - before each Mass

Tuesday: 1. Coordinate services and activities of various
religious groups within the facility
2. Counseling
3. Visit hospital unit
4. Distribute religious literature for all
denominations

Thursday: Counseling, general visitation of all units

II. Protestant: Chaplain (Reverend) William H. Lothrop

Sunday: Religious Services and visit hospital unit
(All units) 9:00 a.m.

Thursday: Counseling (All units)

III. Jewish: Chaplain (Rabbi) Joseph Potasnik

Friday: Services 8:00 p.m. and counseling with inmates

IV. World Community of Islam in the West: Imam Takbir Muhammad Sharif

Thursday: Evening Services
(All units) 6:00 p.m. - 7:30 p.m.

Counseling throughout the week by Imams and Sisters

V. Christian Science: Lehman Hunter, Coordinator

Sunday: Services at 9:00 a.m. (Units 2 and 5 only)
Counseling services on units

Tuesday: Counseling Services on units

Saturday: Counseling Services on units

RX-J

A 1996

Page 2
3/18/77
Religious Programs

VII. Salvation Army - Counseling Services

Appointment only - Monday through Friday

VIII. Bible Study (Spanish): Rev. Felipe Nieves (New York International Bible Society)

Friday: 1:30 p.m. to 3:00 p.m. (All units)

IX. Yokefellows: Reverend John Mostoller

Tuesday: Meetings for 2 and 5 - 8:30 p.m.

V. Alcoholics Anonymous: Buford Peterson

Thursday: 8:00 p.m. to 10:00 p.m. (Units 2 and 5)

XI. Gamblers Anonymous: Tuesday 6:00 p.m. (All units)

Inmates desiring to contact any of the religious personnel should address correspondence to the Warden's office. Arrangements will be made from these to schedule personal appointments.

A 1937

RX-K

BUREAU OF PRISONS

WASHINGTON, D. C. 20537

Policy Statement

7300.43B

SUBJECT: RELIGIOUS BELIEFS AND PRACTICES OF COMMITTED OFFENDERS

6-27-73

1. PURPOSE. To provide policy guidelines relating to religious beliefs and practices of committed offenders.
2. POLICY. It is the policy of the Bureau of Prisons to extend to committed offenders the greatest amount of freedom of, and opportunity for pursuing, individual religious beliefs and practices as is consonant with the Bureau of Prisons mission -- the correction of the committed offender. This must be accomplished within the context of the requirements of maintaining security, safety, and orderly conditions in the institution. It includes distributing, as widely as possible, available resources among the many kinds of services and activities which contribute to these aims.
 - a. Chaplains employed by the Bureau are available to serve all committed offenders in the institution. Assistance shall be given all committed offenders to deepen and expand their knowledge, understanding, and commitment to the beliefs and principles of the religion of their choice. The Chaplains shall assist committed offenders to resolve such personal conflicts as may exist relative to religious beliefs.
 - b. Achieving these purposes may, and at times should, entail drawing upon resources beyond those normally available within the institution, including clergymen or other representatives of faith groups in the community.
 - * c. No one will disparage the religious beliefs of any committed offender, nor force an individual to perform any duty contrary to the established requirements of their religious beliefs, nor deliberately seek to persuade a change of religious affiliation.
 - d. Participation in religious activities and attendance at religious services of worship is voluntary.
 - e. The Chaplain shall obtain religious materials which comply with Policy Statement 7300.42A dated June 29, 1970, from religious or faith groups of interest to the committed offenders. A reasonable portion of the budgets of the offices of the Chaplains should be devoted, in appropriate proportions, to the procurement of a variety of religious literature and faith group materials for circulation.

- f. Arrangements may be made, through a staff Chaplain, for a committed offender to obtain personal copies of certain approved books of religious content or subscriptions to religious periodicals. A committed offender will be permitted to retain for personal use Scriptural or devotional books consonant with the faith of the offender. All books and publications retained by the committed offender must be in compliance with the rules and regulations of the institution pertaining to articles and materials in the possession of, or in the living quarters of, the resident.

3. DIRECTIVES AFFECTED. Policy Statement 7300.43A dated July 7, 1970 and Policy Statement 7300.5 dated September 17, 1951 are hereby cancelled; previous practices pertaining to clearance of books and publications of a religious content are cancelled; this statement supplants all previous material on policy and procedures herein contained.

4. REGULATION OF RELIGIOUS ACTIVITIES. In any society there is the likelihood of occasional, or even frequent, conflict between an individual's religion-inspired inclinations, or obligations, and the need to comply with the requirements of civil authority. The problem may become particularly acute in a prison or correctional institution. Although we seek to minimize such conflicts, there are constraints in the correctional setting which must be recognized, understood, and accommodated.

- a. Freedom to Change Religious Affiliation. A committed offender may change the designation of religious preference or affiliation. Such a decision should be made only after due, careful, and honest deliberation over a period of time which will enable thorough consideration of all the implications of the decision. This may be accomplished after consulting with the appropriate staff Chaplain, gaining knowledge of the faith to be embraced, consultation with family members (especially in the case of minors), and personal deliberations about the implications of such a change. Ideally the committed offender should prepare while in the institution to become a member of a chosen church upon release to the community; in this way, the person could receive the guidance of the pastor of the church involved, be accepted into the group of believers, and identify with the church in the

community of residence. This may well be the preferred way of changing religious affiliation but the needs of a committed offender with a long sentence, a person who may be near death, or a situation where the change of religious affiliation would strengthen family ties, or produce other desirable results, could alter the preferred course. The records pertaining to the committed offender should reflect any change of religious preference or affiliation.

- b. Religious Services. The objective of the Bureau of Prisons is to extend to committed offenders the greatest amount of freedom of, and opportunity for, religious belief and practice as is consonant with the total mission of the Bureau. It is, therefore, the policy of the Bureau of Prisons that, insofar as possible, all services of worship, religious activities, and meetings of a religious nature within the institution shall be open to any committed offender. The Warden shall authorize regularly appointed Chaplains to schedule services of worship, religious activities, and meetings of a religious nature. Services, activities, or meetings not conducted personally by a regularly appointed Chaplain shall be established and scheduled upon the recommendation of the regularly appointed Chaplain, with the approval of the Warden. All services shall be under the general supervision of a staff Chaplain but specific supervision procedures will be designated by the Warden.

(1) Institutional rules, regulations, and policies in regard to the safety of the individual, the safety of the institution, the orderly conduct of the affairs of the institution, and acceptable conduct of committed offenders shall apply to all services of worship, religious activities, and meetings of a religious nature.

(2) Attendance at services of worship, religious activities, and meetings of a religious nature is voluntary. There shall be no restriction on attendance because of race, color, nationality, or creed. The opportunity to attend services, activities, or meetings shall be offered unless there is a compelling reason to the contrary. The Warden may, in his discretion when it is deemed necessary for administrative control, limit the attendance at any religious meeting or discontinue the activity. Normally, work assignments should not preclude attendance at services, activities, or meetings of a religious nature.

(3) The Warden, or a designated staff member, will require appropriate staff supervision of any service of worship, religious activity, or meeting of a religious nature.

(4) Services of worship, religious activities, and meetings of a religious nature shall be scheduled with reasonable frequency. The availability of staff supervision must be taken into consideration as well as a recognition of the proportionate sharing of time and space available in terms of the total demand.

* (5) To the extent possible liturgical apparel such as skullcaps, prayer shawls, phylacteries may also be retained, however, it may only be worn during the actual religious services. This must be accomplished within the context of the requirements of maintaining security, safety, and orderly conditions in the institution, and in accord with Policy Statement No. 20,001A "Custodial Manual."

- c. Religious Instruction. The staff Chaplains should attempt to meet the needs of all committed offenders for religious education and religious instruction. They may utilize the services of voluntary and contractual religious leaders to supplement the religious program or meet special denominational need.
- d. Religious Materials. Committed offenders wishing to retain religious books, publications and materials must comply with the general rules and regulations of the institution regarding the accumulation of personal property. Literature, publications, and/or books of or about religion or religious teaching shall be permitted when the contents comply with Policy Statement 7300.42A, dated June 29, 1970, "Incoming Publication." A committed offender may contribute personal religious books and publications, which are in excess of those permitted by regulations, to the institution or mail them to an approved correspondent.
- e. Visiting Clergy. The policy of augmenting the usual religious activities does not contemplate nor envision the admission of clergymen to conduct worship services, religious activities, or meetings of a religious nature except upon the invitation of a staff Chaplain pursuant to the policies set forth elsewhere in this statement.
- f. Diet
- (1) A committed offender may abstain from eating those food items, served to the general population, which are prohibited by the religion of the resident. The committed offender may receive added portions of non-rationed food items, from the main serving line, which in no way cause a violation of the restrictions of the faith professed by the committed offender. Ordinarily,